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Respond to Dayton Office

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March 20, 2015

VIA FEDERAL EXPRESS

Margaret Herring, Civil Investigator
U.S. Environmental Protection Agency, Region 5
Superfund Division
Enforcement and Compliance Assurance Branch (SE-5J)
77 West Jackson Boulevard
Chicago, IL 60604-3590

Re: South Dayton Dump & Landfill Site in Moraine, Ohio

Dear Ms. Herring:

This letter responds to the Information Requests by the U.S. Environmental Protection Agency ("Agency") in its January 16, 2015 Special Notice Letter regarding the South Dayton Dump and Landfill in Moraine, Ohio ("Site"). Pursuant to Section 104(e)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9604(e)(2), we submit this letter on behalf of our client Cox Media Group Ohio, Inc., successor-in-interest to two daily newspapers, the Dayton Daily News and the Dayton Journal Herald ("CMGO").¹

Preliminary Statement and General Objections

In responding to the Agency's Information Requests, CMGO does not concede it is a potentially responsible party or any CERCLA liability relating to the Site. CMGO has investigated the Agency's allegations relating to the Site, and CMGO has participated in

¹ Pursuant to communications with Associate Regional Counsel for the Agency Thomas Nash, CMGO was granted until March 23, 2015 to respond to the Agency's Information Requests.

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discovery in CERCLA litigation relating to those allegations that is pending before the U.S. District Court in Dayton, Hobart, et al. v. The Dayton Power & Light Co., et al., Case No. 3:13-cv-115-WHR. Based on CMGO's investigation and the discovery conducted to date in the Hobart case, there is no credible evidence to establish that CMGO, directly or indirectly, contributed waste to the Site. Thus, there is no support for a finding that CMGO is responsible for any clean-up costs relating to the Site.

The lack of any credible evidence linking CMGO to the Site renders the Information Requests, in their entirety, unreasonable, arbitrary and capricious, and an abuse of discretion. Nevertheless, CMGO has conducted a reasonable and diligent investigation for the information requested by the Agency. Based on that investigation, CMGO answers, objects, or otherwise responds to the Information Requests, subject to the Agency's subsequent limitations as to scope, which were expressed by Mr. Nash on February 11, 2015, as well as the following General Objections:

1. CMGO objects to each and every Request to the extent that it seeks information that is beyond the scope of the Agency's statutory authority because, among other reasons, the requested information is not relevant to (A) the identification, nature, and quantity of materials which have been or
2. are generated, treated, stored, or disposed of at the Site, (B) the nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from the Site, or (C) information relating to the ability of CMGO to pay for or to perform a cleanup. CERCLA § 104(e), 42 U.S.C. § 9604(e).
3. CMGO objects to each and every Request to the extent that it is unreasonable, arbitrary and capricious, or an abuse of discretion.
4. CMGO objects to the mischaracterization by the Agency of the availability of compliance measures under CERCLA § 104(e)(5), 42 U.S.C. § 9604(e)(5). Pursuant to that subsection, compliance orders require "notice and opportunity for consultation as is reasonably appropriate under the circumstances." 42 U.S.C. § 9604(e)(5)(A). Moreover, judicial enforcement of such orders requires both "a reasonable basis to believe there may be a release or threat of a release of hazardous substance or pollutant contaminant," and that the Agency's requests not be "arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law." 42 U.S.C. § 9604(e)(5)(B)(ii).
5. CMGO objects to the mischaracterization by the Agency of the availability of penalties for "false, fictitious or fraudulent statements or misrepresentations" under 18 U.S.C. § 1001. Penalties under that statute

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are available only when conduct prohibited by that statute is committed "knowingly and willfully." 18 U.S.C. § 1001(a).

6. CMGO objects to the attempt by the Agency, without statutory authority, to impose a continuing duty on CMGO to supplement its responses to the Information Requests.
7. CMGO objects to the attempt by the Agency, without statutory authority, to require the individual who has prepared the response to the Information Request, or the responsible corporate official acting on behalf of CMGO, to sign a certification substantially equivalent to the statement contained in the January 16, 2015 Special Notice Letter, Enclosure 4.
8. CMGO objects to each and every Request to the extent that it is not relevant to this administrative matter.
9. CMGO objects to each and every Request to the extent that it is harassing, unduly burdensome, oppressive, overly-broad, or does not identify the requested information with reasonable particularity. CMGO further objects to the extent that the Requests are vague, ambiguous or contain terms or phrases that are undefined and subject to varying interpretations or meanings, and therefore, may make responses misleading, incomplete, or incorrect and render it impossible to ascertain the precise information sought.
10. CMGO objects to each and every Request to the extent that it seeks material or information that is privileged by statute or common law, including privileged communications between attorney and client, communications subject to the joint defense doctrine and/or privilege, and/or that is protected by Fed. R. Civ. P. 26(b)(3) or (4). CMGO will not produce privileged documents or information, and any inadvertent disclosure of material or information protected by the attorney-client privilege, the attorney work product doctrine, or any other privilege or protection is not intended and should not be construed to constitute a waiver, either generally or specifically, with respect to such information or material or the subject matter thereof, either in this administrative matter or any other federal or state matter. Fed. R. Evid. 502. All of the responses to these Requests are subject to objections as to privilege, and by making these responses, CMGO is not waiving or failing to assert any privilege available. CMGO reserves the right to redact certain information from documents produced in response to the Information Requests. All documents redacted will be stamped as such.

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11. CMGO objects to each and every Request to the extent that it seeks information that is proprietary or confidential.
12. CMGO objects to each and every Request to the extent that it seeks documents or information that can be obtained more efficiently through other means, and to the extent it calls for a lengthy factual narrative or itemization.
13. CMGO objects to each and every Request to the extent that it seeks documents or information already in the possession or control of the Agency.
14. CMGO objects to each and every Request to the extent that it is cumulative or duplicative of another Request. To the extent that multiple Requests seek multiple copies of the same document, only one copy will be produced.
15. CMGO objects to each and every Request to the extent that it would require the production of documents or information that is not kept by CMGO in the ordinary course of business, or seeks information in a manner other than the manner in which documents are kept in the ordinary course of business.
16. CMGO objects to each and every Request to the extent that it is argumentative, lacks foundation or incorporates allegations and assertions that are in dispute.
17. CMGO objects to each and every Request to the extent that it is unlimited in time. Such requests without temporal limitation are overly broad, unduly burdensome, oppressive, irrelevant to the subject matter of this administrative matter, harassing, and beyond the scope of the Agency's statutory authority. Pursuant to the limitation as to the temporal scope of the Information Requests, which was communicated by Mr. Nash on February 11, 2015, CMGO limits its responses to the Information Requests to the time period from 1941 through 1996.
18. CMGO objects to each and every Request to the extent that it is unlimited in geographic scope. Such requests without geographic limitation are overly broad, unduly burdensome, oppressive, irrelevant to the subject matter of this administrative matter, harassing, and beyond the scope of the Agency's statutory authority. Pursuant to the limitation as to the geographic scope of the Information Requests to facilities located within 50 miles of the Site, which was communicated by Mr. Nash on February 11, 2015, CMGO limits its responses to the facility that housed the editorial offices and printing presses owned and/or operated by or on

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behalf of the Dayton Daily News and/or the Dayton Journal Herald during the relevant time period, which was located at 45 S. Ludlow Street, Dayton, Ohio 45402 (the "Ludlow Street Facility").

19. The production of any document by CMGO does not and shall not constitute an admission concerning the document, its content, or the evidentiary sufficiency of the document, including, but not limited to, authentication, best evidence, relevance, or hearsay. Responses to any Request are subject to all evidentiary objections as to competence, relevance, materiality, propriety, and admissibility, as well as to any and all other objections on any grounds that would require the exclusion of any statement therein if the response were introduced in court, all of which objections and grounds are expressly reserved.
20. CMGO reserves the right at any time to revise, correct, add to, or clarify CMGO's objections or responses and the production made pursuant thereto, and the failure to make any General or Specific Objection shall not be deemed a waiver of any such objection.
21. These General Objections are common to all Requests, and all responses of CMGO to the Agency's Information Requests are made subject to and without waiving each one of these objections. Failure to state a General Objection to a particular Request does not waive the General Objection. Each and all of the General Objections shall be continuing throughout CMGO's responses to the specific Requests set forth below, even when not referred to in these responses.

RESPONSES TO AGENCY'S REQUESTS FOR INFORMATION

QUESTIONS

1. Identify all persons consulted in the preparation of the answers to these questions.

RESPONSE: See General Objections No. 8 (overly broad and vague); 9 (privileged). Subject to and without waiving these or any other objections, CMGO states that the following individuals provided information for use in responding to the Information Requests:

Mr. Jerry Baker Former General Foreman

Mr. George Morris, Jr. Former Director of Operations

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Ms. Carol Self Former Purchasing Director
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Mr. Robert Zikias Vice President & Chief Financial Officer

All current and former CMGO employees, including employees of the Dayton Daily News and Dayton Journal Herald, shall be contacted through counsel for CMGO:

Ms. Erin E. Rhinehart, Esq.
Faruki Ireland & Cox P.L.L.
500 Courthouse Plaza, S.W.
10 N. Ludlow St.
Dayton, OH 45402
937-227-3714

2. Identify all documents consulted, examined or referred to in the preparation of the answers to these questions, and provide copies of all such documents.

RESPONSE: See General Objections No. 8 (overly broad and vague); 9 (privileged); 10 (proprietary and/or confidential); 12 (already in possession of Agency). Subject to and without waiving these or any other objections, CMGO states that the following documents provided information for use in responding to the Information Requests:

April 24, 2012 Deposition of Edward Grillot (relevant excerpts enclosed)

December 16-17, 2013 Deposition of Edward Grillot (relevant excerpts enclosed)

May 28, 2014 Deposition of David Grillot (relevant excerpts enclosed)
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February 6, 2015 Affidavit of Jerry Baker (enclosed)
--

March 10, 2015 Affidavit of Carol Self (enclosed)

All documents produced by CMGO in the <u>Hobart</u> case. (Bates Labeled CMGO 000001-000023 and enclosed)
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3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question or who may be able to provide additional responsive documents, identify such persons. Provide their current, or last known, address, telephone numbers, and e-mail address.

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and abuse of discretion); 8 (overly broad and vague); 9 (privileged). Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO states that it has no reason to believe that there are any persons not identified in these responses who would be able to provide a more detailed or complete response to any question or who may be able to provide additional responsive documents.

4. Provide names, addresses, telephone numbers, and e-mail addresses of any individuals, including former and current employees, who may be knowledgeable about Respondent's operations and hazardous substances handling, storage and disposal practices.

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and abuse of discretion); 8 (unduly burdensome, overly broad and vague); 9 (privileged); 13 (cumulative and/or duplicative); 15 (argumentative). CMGO further objects because this Request is duplicative of Request No. 3. CMGO further objects to the use of the term "operations" insofar as it does not relate to CMGO's waste disposal practices. CMGO further objects because this Request assumes, without any evidence, that CMGO handled, stored, or disposed of hazardous substances at the Site during the relevant time period. CMGO further objects because this Request seeks information relating to persons who are no longer living and events that transpired more than seventy years ago. Such information is no longer in the possession, custody or control of CMGO. Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO states that the following individuals may have knowledge about CMGO's operations and waste disposal practices at the Ludlow Street Facility during the relevant time period:

Mr. Jerry Baker Former General Foreman
Mr. George Morris, Jr. Former Director of Operations
Ms. Carol Self Former Purchasing Director
Mr. Robert Zikias Vice President & Chief Financial Officer

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5. State the date(s) on which the Respondent sent, brought or moved drums and/or hazardous substances to the South Dayton Dump and Landfill (SDDL) Site and the names, addresses, telephone numbers, and e-mail addresses of the person(s) making arrangements for the drums and/or hazardous substances to be sent, brought or moved to the SDDL Site.

RESPONSE: See General Objections No. 8 (overly broad and vague); 15 (argumentative). CMGO further objects because this Request assumes, without any evidence, that CMGO sent, brought, or moved hazardous substances from the Ludlow Street Facility to the Site. Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO states that it did not transport materials, including hazardous substances, to the Site, and that CMGO has no knowledge of any materials, including hazardous substances, that were transported from the Ludlow Street Facility to the Site.

6. Did Respondent haul or send materials to SDDL in vehicles it owned, leased or operated? If yes, during what time periods did this occur? If no, how did Respondent transport materials to SDDL? Identify the hauler(s) and provide the addresses, telephone numbers, and e-mail addresses of these entities.

RESPONSE: See objections and response to Request No. 5, which are incorporated by reference here. Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO states that it did not arrange for the transportation of any materials, including hazardous substances, to the Site or arrange for the transportation by any third party.

PERMITS/REGISTRATIONS

7. List all federal, state and local permits and/or registrations and their respective permit numbers issued to Respondent for the transport and/or disposal of materials.

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and an abuse of discretion); 8 (unduly burdensome, overly broad and vague); 12 (already in possession of Agency). CMGO further objects because this Request seeks information that is not relevant to (A) the identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at the Site or transported to the Site, (B) the nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from the Site, or (C) information relating to the ability of CMGO to pay for or to perform a cleanup at the Site. 42 U.S.C. § 9604(e)(2). Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO states that it has not identified any permits issued to CMGO for the transport or disposal of materials during the relevant time period.

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8. Which shipments or arrangements were sent under each permit? If what happened to the hazardous substances differed from what was specified in the permit, please state, to the best of your knowledge, the basis or reasons for such difference.

RESPONSE: See objections and response to Request No. 7, which are incorporated by reference here.

9. Were all hazardous substances transported by licensed carriers to hazardous waste Treatment Storage and Disposal Facilities permitted by the U.S. EPA?

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and an abuse of discretion); 7 (not relevant); 8 (unduly burdensome, overly broad and vague). CMGO further objects because the term "licensed carrier" is not defined and is subject to varying interpretations. CMGO further objects because this Request assumes, without any evidence, that CMGO transported or caused to be transported hazardous substances to the Site. CMGO further objects because this Request seeks information that is not relevant to (A) the identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at the Site or transported to the Site, (B) the nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from the Site, or (C) information relating to the ability of CMGO to pay for or to perform a cleanup at the Site. 42 U.S.C. § 9604(e)(2). Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO incorporates by reference here the objections and response to Request No. 5.

10. List all federal, state and local permits and/or registrations and their respective permit numbers issued for the transport and/or disposal of wastes.

RESPONSE: See objections and response to Request No. 7, which are incorporated by reference here.

11. Does your company or business have a permit or permits issued under Resource Conservation and Recovery Act? Does it have or has it ever had, a permit or permits under the hazardous substance laws of the State of Ohio? Does your company or business have an EPA Identification Number, or an identification number supplied by the State Environmental Protection Agency? Supply any such identification number(s) your company or business has.

RESPONSE: See objections and response to Request No. 7, which are incorporated by reference here.

12. Identify whether Respondent ever filed a Notification of Hazardous Waste Activity with the EPA or the corresponding agency or official of the State of Ohio, the date of such filing, the wastes described in such notice, the quantity thereof described in such notice,

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and the identification number assigned to such facility by EPA or the state agency or official.

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and an abuse of discretion); 8 (unduly burdensome, overly broad and vague); 12 (already in possession of Agency). CMGO further objects to this Request because it does not request information relevant to (A) the identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at the Site or transported to the Site, (B) the nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from the Site, or (C) information relating to the ability of CMGO to pay for or to perform a cleanup at the Site. 42 U.S.C. § 9604(e)(2). Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO has not identified any Notification of Hazardous Waste Activity that was filed by CMGO with the Agency or a corresponding agency or official of the State of Ohio. CMGO further states that it has produced all documents in its possession, custody, and control that are responsive to these Information Requests.

**RESPONDENT'S DISPOSAL/TREATMENT/STORAGE/
RECYCLING/SALE OF WASTE (INCLUDING BY-PRODUCTS)**

13. Identify all individuals who currently have and those who have had responsibility for Respondent's environmental matters (e.g. responsibility for the disposal, treatment, storage, recycling, or sale of Respondent's wastes). Also provide each individual's job title, duties, dates performing those duties, supervisors for those duties, current position or the date of the individual's resignation, and the nature of the information possessed by such individuals concerning Respondent's waste management. For each individual identified in response to this question provide the current or most recent known address, telephone number and e-mail address.

RESPONSE: See General Objections No. 8 (overly broad and vague); 9 (privileged); 13 (cumulative and/or duplicative). CMGO further objects because this Request is duplicative of Request No. 4. CMGO further objects because the term "environmental matters" is not defined and is subject to varying interpretations. CMGO further objects because this Request seeks information relating to persons who are no longer living and events that transpired more than seventy years ago. Such information is no longer in the possession, custody or control of CMGO. Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO states that the following people may have had responsibility for some or all of CMGO's environmental matters with respect to the Ludlow Street Facility, including waste disposal practices:

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Mr. Jerry Baker Former General Foreman
Mr. Dick Hartle Former Circulation Director and former Safety Director
Mr. George Morris Former Director of Operations
Mr. Bob Zikias Vice President and Chief Financial Officer, CMGO

14. Describe the containers used to take any type of waste from Respondent's operation, including but not limited to:

- a. the type of container (e.g. 55 gal. drum, dumpster, etc.);

RESPONSE: See General Objection No. 8 (overly broad and vague). Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO states that it collected waste ink at the Ludlow Street Facility (i.e., ink rendered unusable because of mixing with paper dust) in 55-gallon steel drums for removal from the Ludlow Street Facility from approximately 1969 to the mid 1970s. The waste ink was not removed, directly or indirectly, to the Site.

- b. the colors of the containers;

RESPONSE: See General Objection No. 8 (overly broad and vague). Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO states that the color of the 55-gallon steel drums referenced in Response No. 14(a) in which waste ink was collected for removal from the Ludlow Street Facility were black.

- c. any distinctive stripes or other markings on those containers;

RESPONSE: See General Objection No. 8 (overly broad and vague). Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO states that the 55-gallon drums referenced in Response No. 14(a) in which waste ink was collected for removal from the Ludlow Street Facility may have been marked with the words "Dayton Newspapers," or something substantially similar, by the third-party company from which CMGO purchased the ink and that delivered ink to CMGO; and, the word "Waste," or something substantially similar, in white, by CMGO after the waste ink was collected in the drum(s).

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- d. any labels or writing on those containers (including the content of those labels);

RESPONSE: See objections and response to Request No. 14(c), which are incorporated by reference here.

- e. whether those containers were new or used; and

RESPONSE: See General Objection No. 8 (overly broad and vague). Subject to and without waiving these or any other objections, CMGO states that the 55-gallon steel drums referenced in Response No. 14(a) in which waste ink was collected for removal from the Ludlow Street Facility were the same drums in which ink was delivered to CMGO from a third-party company.

- f. if those containers were used, a description of the prior use of the containers.

RESPONSE: See objections and response to Request Nos. 14(c) and (e), which are incorporated by reference here.

15. For any type of waste describe Respondent's contracts, agreements, or other arrangements for its disposal, treatment, or recycling. Provide copies of all documents relating to the transportation or disposal of said waste, including correspondence and manifests. Include all correspondence and records of communication between Respondent and Cyril Grillot, Kenneth Grillot, Alcine Grillot, or Horace Boesch, Sr.

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and an abuse of discretion); 8 (unduly burdensome, overly broad and vague); 10 (proprietary and/or confidential). CMGO further objects because this Request seeks information relating to persons who are no longer living and events that transpired more than seventy years ago. Such information is no longer in the possession, custody or control of CMGO. CMGO ceased its operations at the Ludlow Street Facility in 1999. Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO has not identified any contracts, agreements, or other arrangements for waste disposal from the Ludlow Street Facility during the relevant time period; CMGO has produced all documents in its possession, custody, and control that are responsive to these Information Requests. CMGO has no reason to believe that it had communications with Cyril Grillot, Kenneth Grillot, Alcine Grillot, or Horace Boesch, Sr.

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16. Provide copies of such contracts and other documents reflecting such agreements or arrangements.

g. State where Respondent sent each type of its waste for disposal, treatment, or recycling.

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and an abuse of discretion); 8 (unduly burdensome, overly broad and vague); 10 (proprietary and/or confidential). CMGO further objects because this Request seeks information relating to persons who are no longer living and events that transpired more than seventy years ago. Such information is no longer in the possession, custody or control of CMGO. Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO is not aware of where waste from the Ludlow Street Facility was transported during the relevant time period.

h. Identify all entities and individuals who picked up waste from Respondent or who otherwise transported the waste away from Respondent's operations (these companies and individuals shall be called "Waste Carriers" for purposes of this Information Request).

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and an abuse of discretion); 8 (unduly burdensome, overly broad and vague); 10 (proprietary and/or confidential). CMGO further objects because this Request seeks information relating to persons who are no longer living and events that transpired more than seventy years ago. Such information is no longer in the possession, custody or control of CMGO. Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO states, upon information and belief, that during the relevant time period, A & B Iron & Metal Co., Izzy's, and/or Capitol Waste Materials Co., may have been hired to transport waste from the Ludlow Street Facility to one or more waste disposal sites, the identity of such waste disposal site(s) is outside the scope of CMGO's possession, custody or control.

i. If Respondent transported any of its wastes away from its operations, please so indicate and answer all questions related to "Waste Carriers" with reference to Respondent's actions.

RESPONSE: See objections and response to Request No. 5, which are incorporated by reference here.

j. For each type of waste specify which Waste Carrier picked it up.

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and an abuse of discretion); 8 (unduly

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burdensome, overly broad and vague); and 12 (already in possession of Agency). CMGO further objects because this Request seeks information relating to persons who are no longer living and events that transpired more than seventy years ago. Such information is no longer in the possession, custody or control of CMGO. Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO states, upon information and belief, that A & B Iron & Metal Co., Izzy's and/or Capitol Waste Materials Co. may have transported waste, including excess paper, cardboard and waste ink from the Ludlow Street Facility. CMGO further states that the disposal of waste ink from the Ludlow Street Facility ceased on or about the mid-1970s, following the implementation of a filtration system that was used to filter the paper dust from the ink so that the ink could be re-used. This filtration system is also referred to as a reclaiming system.

- k. For each type of waste, state how frequently each Waste Carrier picked up such waste.

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and an abuse of discretion); and 8 (unduly burdensome, overly broad and vague). CMGO further objects because this Request seeks information relating to persons who are no longer living and events that transpired more than seventy years ago. Such information is no longer in the possession, custody or control of CMGO. Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO is not aware of how frequently each type of waste was transported from the Ludlow Street Facility by A & B Iron & Metal Co., Izzy's, and/or Capitol Waste Materials Co., if any, during the relevant time period.

- l. For each type of waste state the volume picked up by each Waste Carrier (per week, month, or year).

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and an abuse of discretion); 8 (unduly burdensome, overly broad and vague); 12 (already in possession of Agency). CMGO further objects because this Request seeks information relating to persons who are no longer living and events that transpired more than seventy years ago. Such information is no longer in the possession, custody or control of CMGO. Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO is not aware of the volume of each type of waste that was transported from the Ludlow Street Facility by A & B Iron & Metal Co., Izzy's, and/or Capitol Waste Materials Co., if any, during the relevant timer period.

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- m. For each type of waste state the dates (beginning & ending) such waste was picked up by each Waste Carrier.

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and an abuse of discretion); and 8 (unduly burdensome, overly broad and vague). CMGO further objects because this Request seeks information relating to persons who are no longer living and events that transpired more than seventy years ago. Such information is no longer in the possession, custody or control of CMGO. Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO is not aware of the dates on which any contracts to transport waste from the Ludlow Street Facility between and/or among CMGO and A & B Iron & Metal Co., Izzy's, and/or Capitol Waste Materials Co. began or ended.

- n. Provide copies of all documents containing information responsive to the previous seven questions.

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and an abuse of discretion); 8 (unduly burdensome, overly broad and vague); and 12 (already in possession of Agency). CMGO further objects because this Request seeks information relating to persons and events that transpired more than seventy years ago. Such information is no longer in the possession, custody or control of CMGO. Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO has produced all documents in its possession, custody, and control that are responsive to these Information Requests.

- o. Describe the vehicles used by each Waste Carrier to haul away each type of waste including but not limited to:
 - i. the type of vehicle (e.g., flatbed truck, tanker truck, containerized dumpster truck, etc.);

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and an abuse of discretion); and 8 (unduly burdensome, overly broad and vague). Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO states, upon information and belief, that Izzy's may have transported waste from the Ludlow Street Facility during the relevant time period in a red pickup truck.

- ii. names or markings on the vehicles; and

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and an abuse of discretion); and 8 (unduly burdensome, overly broad and vague). Subject to and without waiving these or any other

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objections, and based on its reasonable and diligent investigation to date, CMGO is not aware of any names or markings on any vehicle(s) used by A & B Iron & Metal Co., Izzy's, and/or Capitol Waste Materials Co. to transport waste from the Ludlow Street Facility during the relevant time period.

- iii. the color of such vehicles.

RESPONSE: See objections and response to Request No. 16(o)(i), which are incorporated by reference here.

- j. Identify all of each Waste Carrier's employees who collected Respondent's wastes.

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and an abuse of discretion); and 8 (unduly burdensome, overly broad and vague). Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO is not aware of the name of any employee of A & B Iron & Metal Co., Izzy's, and/or Capitol Waste Materials Co. who may have collected CMGO's waste during the relevant time period.

- k. Indicate the ultimate disposal/recycling/treatment location for each type of waste.

RESPONSE: See objections and responses to Request No. 16(h), which are incorporated by reference here.

- l. Provide all documents indicating the ultimate disposal/recycling/treatment location for each type of waste.

RESPONSE: See objections and responses to Request No. 16(h), which are incorporated by reference here.

- m. Describe how Respondent managed pickups of each waste, including but not limited to:

- i. the method for inventorying each type of waste;

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and an abuse of discretion); and 8 (unduly burdensome, overly broad and vague). Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO is not aware of the method for inventorying each type of waste at the Ludlow Street Facility during the relevant time period.

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- ii. the method for requesting each type of waste to be picked up;

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and an abuse of discretion); and 8 (unduly burdensome, overly broad and vague). Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO is not aware of the method for requesting each type of waste to be transported from the Ludlow Street Facility during the relevant time period.

- iii. the identity of (see Definitions) the waste carrier employee/agent contacted for pickup of each type of waste;

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and an abuse of discretion); and 8 (unduly burdensome, overly broad and vague). Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO is not aware of the identity of the waste carrier employee or agent who was contacted when waste was ready to be transported from the Ludlow Street Facility during the relevant time period.

- iv. the amount paid or the rate paid for the pickup of each type of waste;

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and an abuse of discretion); 7 (not relevant); and 8 (unduly burdensome, overly broad and vague). Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO is not aware of the amount paid or the rate paid for the pickup of each type of waste from the Ludlow Street Facility during the relevant time period.

- v. the identity of (see Definitions) Respondent's employee who paid the bills;
and

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and an abuse of discretion); 7 (not relevant); and 8 (unduly burdensome, overly broad and vague). CMGO further objects to the extent that "bills" does not refer to sending, bringing, or moving of waste from the Ludlow Street during the relevant time period. Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO is not aware of the CMGO employee who paid for the transportation of waste from the Ludlow Street Facility during the relevant time period.

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- vi. the identity of (see Definitions) the individual (name or title) and company to whom Respondent sent the payment for pickup of each type of waste.

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and an abuse of discretion); and 7 (not relevant); 8 (unduly burdensome, overly broad and vague). Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO is not aware of the individual and company to whom CMGO sent payment for the transportation of waste from the Ludlow Street Facility during the relevant time period.

- n. Identify the individual or organization (i.e., the Respondent, the Waste Carrier, or, if neither, identify such other person) who selected the location where each of the Respondent's wastes were taken.

RESPONSE: See objections and responses to Request No. 16(h), which are incorporated by reference here.

- o. State the basis for and provide any documents supporting the answer to the previous question.

RESPONSE: See objections and response to Request No. 16(n), which are incorporated by reference here.

- p. Describe all wastes disposed by Respondent into Respondent's drains including but not limited to:

- i. the nature and chemical composition of each type of waste;

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and an abuse of discretion); 7 (not relevant); and 8 (unduly burdensome, overly broad and vague). CMGO further objects because this Request does not request information relevant to (A) the identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at the Site or transported to the Site, (B) the nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from the Site, or (C) information relating to the ability of CMGO to pay for or to perform a cleanup at the Site. CMGO further objects because this Request is irrelevant to this administrative matter, as the Site is approximately three miles from the Ludlow Street Facility. Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO is not aware of the disposal of any waste down its drains at the Ludlow Street Facility during the relevant time period.

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- ii. the dates on which those wastes were disposed;

RESPONSE: See objections and response to Request No. 16(p)(i), which are incorporated by reference here.

- iii. the approximate quantity of those wastes disposed by month and year;

RESPONSE: See objections and response to Request 16(p)(i), which are incorporated by reference here.

- iv. the location to which these wastes drained (e.g. on-site septic system, onsite storage tank, pre- treatment plant, Publicly Owned Treatment Works (POTW), etc.); and

RESPONSE: See objections and response to Request 16(p)(i), which are incorporated by reference here.

- v. whether and what pretreatment was provided.

RESPONSE: See objections and response to Request 16(p)(i), which are incorporated by reference here.

- q. Identify any sewage authority or treatment works to which Respondent's waste was sent.

RESPONSE: See objections and response to Request 16(p)(i), which are incorporated by reference here.

- r. If not already provided, specify the dates and circumstances when Respondent's waste was taken to the SDDL Site, and identify the companies or individuals who brought Respondent's waste to the Site. Provide all documents which support or memorialize your response.

RESPONSE: See objections and response to Request No. 5, which are incorporated by reference here.

RESPONDENT'S ENVIRONMENTAL REPORTING

17. Provide all Resource Conservation and Recovery Act (RCRA) Identification Numbers issued to Respondent by EPA or a state for Respondent's operations.

RESPONSE: See General Objections No. 1 (beyond statutory authority); 2 (unreasonable, arbitrary and capricious, and an abuse of discretion); 8 (unduly burdensome, overly broad and vague); and 12 (already in possession of Agency). CMGO further objects to this Request because it does not request information relevant to (A) the

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identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at the Site or transported to the Site, (B) the nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from the Site, or (C) information relating to the ability of CMGO to pay for or to perform a cleanup at the Site. CERCLA § 104(e)(2), 42 U.S.C. § 9604(e)(2). Subject to and without waiving these or any other objections, and based on its reasonable and diligent investigation to date, CMGO states that it has produced all documents in its possession, custody, and control that are responsive to these Information Requests.

18. Identify (see Definitions) all federal offices to which Respondent has sent or filed information about hazardous substance or hazardous waste.

RESPONSE: See objections and response to Request No. 17, which are incorporated by reference here.

19. State the years during which such information was sent/filed.

RESPONSE: See objections and response to Request No. 17, which are incorporated by reference here.

20. Identify (see Definitions) all state offices to which Respondent has sent or filed hazardous substance or hazardous waste information.

RESPONSE: See objections and response to Request No. 17, which are incorporated by reference here.

21. State the years during which such information was sent/filed.

RESPONSE: See objections and response to Request No. 17, which are incorporated by reference here.

22. List all federal and state environmental laws and regulations under which Respondent has reported to federal or state governments, including but not limited to: Toxic Substances Control Act, 15 U.S.C. Sections 2601 et seq., (TSCA); Emergency Planning and Community Right-to-Know Act, 42 U.S.C. Sections 1101 et seq., (EPCRA); and the Clean Water Act (the Water Pollution Prevention and Control Act), 33 U.S.C. Sections 1251 et seq.; Solid Waste and Infectious Waste Regulations, OAC 3745-27 (former rule EP-20); Licenses for Solid Waste, Infectious Waste Treatment, or Construction and Demolition Debris Facilities, OAC 3745-37 (former rule EP-33); Solid and Hazardous Wastes, ORC 3734-01 through 3734-11; Open Burning Standards, OAC 3745-19-03.

RESPONSE: See objections and response to Request No. 17, which are incorporated by reference here.

FARUKI IRELAND & COX P.L.L.

Margaret Herring, Civil Investigator

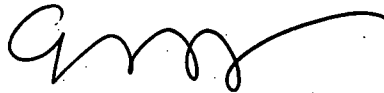
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23. Identify the federal and state offices to which such information was sent.

RESPONSE: See objections and response to Request No. 17, which are incorporated by reference here.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Erin E. Rhinehart', with a stylized, flowing script.

Erin E. Rhinehart

EER/slr
Enclosures

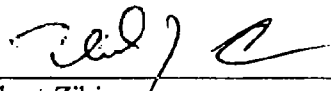
cc Robert Zikias (*via electronic mail only*)

VERIFICATION

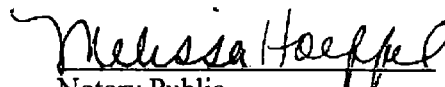
STATE OF OHIO)
) SS:
COUNTY OF MONTGOMERY)

I, Robert Zikias, being first duly sworn, verify that I am Vice President and Chief Financial Officer of Cox Media Group Ohio, Inc. Subject to and without waiving any objections raised by counsel, I certify under penalty of law that the attached letter and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted.

Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.


Robert Zikias

Sworn to before me and subscribed in my presence by Robert Zikias, this 18th day of March, 2015.


Notary Public



MELISSA R. HOEFFEL
Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration
Section 147.03 R.C.

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

HOBART CORPORATION, et al.,)
)
Plaintiffs,)
)
-vs-) Case No. 3:10-CV-195
)
WASTE MANAGEMENT OF OHIO,)
INC., et al.,)
)
Defendants.)

DEPOSITION OF EDWARD GRILLOT taken by me, Susan L. Bickert, a Certified Shorthand Reporter and Notary Public in and for the State of Ohio, at large, pursuant to the Federal Rules of Civil Procedure, as upon Direct Examination, at the offices of Thompson Hine, LLP, Austin Landing I, 10050 Innovation Drive, Suite 400, Dayton, Ohio 45342, on Tuesday, April 24, 2012, commencing at 10:10 o'clock a.m. on behalf of the Plaintiffs.

1 A Yeah.

2 Q Okay. Here's another one for you.
3 Everyone's favorite, Dayton Daily News.

4 A (Nodding in the affirmative.)

5 Q You're shaking your head. What do
6 you know about them?

7 A Mostly paper or cardboard.

8 Q Were they a customer of SDD, South
9 Dayton Dump?

10 A Not as much. They would go to
11 Blaylock because it was mostly -- their paper and
12 stuff had -- couldn't be recycled at the time, and
13 they would bury it until Larry Brandon came up with
14 the idea to make insulation out of it, and I think
15 he got the bulk of their business.

16 Q Container Service got the bulk of
17 their business?

18 A Mm-hmm.

19 Q And did that material come to SDD?

20 A No, just when -- it was called
21 Dayton Fiber. That was Larry Brandon. That's what
22 the newspaper --

23 Q I got you.

24 A It was over on -- I think I
25 mentioned on West River Road, and they would shred

1 the newspaper up and then put a chemical with it
2 and made insulation that you would pour in your
3 attic.

4 Q Got you. Now, what about ink or
5 waste ink from Dayton Daily News? Did that come to
6 your site?

7 A Yes, it would.

8 Q And tell me about that. What do you
9 remember about that?

10 A Well, when I stepped in it, it got
11 all over my shoes. I wasn't very happy. It was a
12 blue color. It was between McCall's and Dayton
13 Daily News that a lot of -- and Journal Herald at
14 the time, which was part of Dayton Daily. It was
15 the morning --

16 Q Morning edition?

17 A -- Journal.

18 Q Morning paper?

19 A Right.

20 Q That was called the Journal Herald?

21 A Journal Herald, yeah.

22 Q It goes back a long way.

23 So how did Dayton Daily News get its ink
24 waste, as well as Journal Herald, how did they get
25 their ink waste to SDD?

1 A Trucks. But I don't remember --
2 yes, they did have Dayton Daily -- "Journal Herald"
3 on the side of 'em. That's it. They were big
4 white like box trucks.

5 Q Right.

6 A And they would come in that.

7 Q And what kind of containers was the
8 ink in?

9 A Ink was in like tubes. That's what
10 I say, if you didn't watch where you walked, you'd
11 step on that tube and that ink would fly
12 everywhere, and it was very annoying to us on the
13 dump.

14 Q I can imagine. How frequently did
15 you see these Journal Herald -- white Journal
16 Herald trucks come in with the ink tubes?

17 A They had loads come in twice a week,
18 something like that.

19 Q For what period of time?

20 A Oh, what period of time?

21 Q When you were a little kid?

22 A I remember it as a teenager mostly.

23 Q Okay. So that -- and you also you
24 just mentioned McCall's. I'll jump ahead. That's
25 really an M, but since you mentioned them let's

1 talk about McCall's.

2 Were they connected to Dayton Daily News,
3 or is that a separate entity?

4 A I don't know. I believe it was a
5 separate entity.

6 Q And a magazine, McCall's?

7 A Hmm?

8 Q They were a magazine, weren't they?

9 A They made magazines, yeah.

10 Q And did they also bring in ink
11 waste?

12 A Ink waste. Some of their barrels --
13 big barrels came from their -- I don't know, some
14 kind of solvents or something, and then --

15 Q So they actually brought drums in?

16 A Yeah, mm-hmm.

17 Q All right. And what kind of a load
18 of drums would come? Well, let me ask what kind of
19 truck? Did they have -- it say "McCall's" on the
20 truck?

21 A Yeah.

22 Q What sort of truck was it, if you
23 remember?

24 A Panel truck.

25 Q And full of drums?

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF OHIO
3 WESTERN DIVISION

4 * * *

5 HOBART CORPORATION,

6 et al.,

7 Plaintiffs,

CASE NO. 3:13-cv-115

8 vs.

VOLUME I

9 THE DAYTON POWER AND LIGHT

10 COMPANY, et al.,

11 Defendants.

12 * * *

13 Deposition of EDWARD GRILLOT, Witness
14 herein, called by the Plaintiffs for direct
15 examination pursuant to the Rules of Civil
16 Procedure, taken before me, Barbara A. Nikolai, a
17 Notary Public in and for the State of Ohio, at
18 Sebaly, Shillito + Dyer, 1900 Kettering Tower,
19 40 North Main Street, 13th Floor Conference Room,
20 Dayton, Ohio, on Monday, December 16th, 2013, at
21 9:22 o'clock a.m.

22 * * *

10:00:03 1 Q. Okay. And where would the ink go
10:00:06 2 or where did the ink go?

10:00:08 3 A. We put it into barrels and took it
10:00:11 4 down to the bottom where other liquids were
10:00:13 5 dumped.

10:00:13 6 Q. So the pit you talked about
10:00:14 7 earlier?

10:00:15 8 A. Um-hum.

10:00:15 9 Q. Yes?

10:00:15 10 A. Yes.

10:00:16 11 Q. Okay. And when do you -- when do
10:00:19 12 you first remember McCall's waste coming into
10:00:23 13 the dump?

10:00:30 14 A. Mid '60s. See, I worked at
10:00:34 15 McCall's for Larry one winter doing snow
10:00:39 16 removal and salt thing, and I think that was
10:00:44 17 '67. So mid -- mid '60s.

10:00:45 18 Q. Okay. And did McCall's bring
10:00:51 19 waste to the site -- or, excuse me. Was there
10:00:53 20 McCall's waste brought to the site throughout
10:00:56 21 the time period the dump was operating?

10:00:57 22 A. Yes, um-hum.

10:00:59 23 Q. Okay. All right. I'm going to
10:01:01 24 switch gears again. Have you heard of the
10:01:05 25 Dayton Daily News?

10:01:06 1 A. Oh, yeah.

10:01:07 2 Q. And were they a customer of the
10:01:09 3 site?

10:01:10 4 A. That, and Journal Herald. At the
10:01:13 5 time, there was two newspapers, one in the
10:01:15 6 morning and one in the afternoon.

10:01:16 7 Q. And which was the morning?

10:01:18 8 A. The Journal Herald.

10:01:20 9 Q. Was it the same company?

10:01:23 10 A. I'm pretty sure, yeah.

10:01:24 11 Q. Okay. And so there was waste from
10:01:29 12 both the Daily News and the Journal Herald that
10:01:31 13 came to the site?

10:01:32 14 A. Yeah.

10:01:32 15 Q. To the dump?

10:01:33 16 A. Yes.

10:01:34 17 Q. Okay. And what kind of -- what
10:01:36 18 kind of waste?

10:01:37 19 A. Again, like McCall's, mostly paper
10:01:41 20 products, and not so much the ink cart -- I
10:01:49 21 don't remember too much about ink from them,
10:01:51 22 but it was mostly paper debris, shreds, like
10:01:55 23 shreds of paper, newspaper and -- because I
10:02:00 24 remember Larry at one particular point, I think
10:02:03 25 it was the latter part of the '60s, decided it

10:02:07 1 had a use, so he started another company called
10:02:11 2 Dayton Fiber, and he would take the newspapers
10:02:13 3 over to another building that was across the
10:02:16 4 river, what we called Drexel area, and started
10:02:21 5 shredding it and putting a chemical with it and
10:02:24 6 making insulation.

10:02:25 7 So then he hired another couple
10:02:28 8 guys that had another trash truck, and that's
10:02:30 9 all they would put it in was newspaper.

10:02:32 10 Q. Okay. This is Larry Brandon?

10:02:34 11 A. Yes.

10:02:34 12 Q. Okay. So let's -- going back to
10:02:40 13 their trucks now, did they -- or, excuse me.

10:02:42 14 Did the Daily News and Journal
10:02:46 15 Herald have their own trucks that came to the
10:02:47 16 site or did they have other haulers bring their
10:02:50 17 waste to the site?

10:02:51 18 A. I'm pretty -- yeah. Yeah, they
10:02:53 19 had like white trucks, like panel trucks.

10:02:57 20 Q. And so at some point before Larry
10:03:03 21 Brandon started his insulation business, the
10:03:06 22 waste that came to the site from the Daily News
10:03:10 23 and the Journal Herald, would that get disposed
10:03:12 24 of at the dump?

10:03:13 25 A. Yeah, mostly we'd put it down at

10:03:16 1 the bottom in the pit to absorb a lot of the
10:03:21 2 other products, and it would sort of dissolve,
10:03:25 3 like toilet paper eventually.

10:03:26 4 So it was kind of nice when he
10:03:28 5 started that company, because we didn't have to
10:03:30 6 mess with it anymore at -- at the incinerator,
10:03:32 7 so, you know.

10:03:34 8 Q. Okay. Now, was it like blank
10:03:36 9 newsprint or was it like old printed newspaper
10:03:40 10 that came?

10:03:40 11 A. Both.

10:03:41 12 Q. Both. Okay. And now after Larry
10:03:47 13 Brandon started his Dayton Fiber operation, was
10:03:52 14 there waste that came from the newspapers that
10:03:55 15 stayed at the South Dayton Dump or did it all
10:03:57 16 go over to Dayton Fiber?

10:03:59 17 A. Well, like I said, it -- oh, you
10:04:02 18 mean during the operation?

10:04:03 19 Q. Yeah.

10:04:04 20 A. Of Larry's operation?

10:04:05 21 Q. Correct.

10:04:06 22 A. Well, there'd still be pallets
10:04:09 23 sometimes. Sometimes there would be these
10:04:13 24 newspaper steel things that you put newspaper
10:04:17 25 in, sometimes they would come, but mostly paper

10:04:23 1 debris.

10:04:24 2 Q. When you say the steel things,
10:04:26 3 like you'd go on the sidewalk and you'd put
10:04:27 4 your quarter in --

10:04:27 5 A. Right.

10:04:29 6 Q. -- and take out your newspaper?

10:04:30 7 A. Right.

10:04:30 8 Q. And those would sometimes be
10:04:34 9 disposed of at the dump?

10:04:35 10 A. Right.

10:04:35 11 Q. Okay. And, again, when do you
10:04:44 12 first remember that the -- the waste coming
10:04:48 13 from the newspapers to the dump?

10:04:53 14 A. As long as I can remember. I was
10:04:55 15 pretty young.

10:04:55 16 Q. And when did Larry Brandon start
10:04:58 17 his Dayton Fiber operation?

10:05:00 18 A. Once again, I think I said before,
10:05:03 19 I think late '70s -- or late '60s.

10:05:06 20 Q. Late '60s?

10:05:07 21 A. Yeah.

10:05:07 22 Q. Okay.

10:05:13 23 A. Everything was kind of really
10:05:15 24 jumping in the '60s. I don't know why, but it
10:05:17 25 was just, you know -- the '70s was more touch

10:05:23 1 and go, and so -- but I remember the '60s being
10:05:27 2 a lot of -- lot of stuff came in.

10:05:30 3 Q. Good business for the dump during
10:05:31 4 the '60s?

10:05:32 5 A. Pardon me?

10:05:33 6 Q. Good business for the dump during
10:05:34 7 the '60s?

10:05:35 8 A. Yeah, um-hum.

10:05:36 9 Q. Okay. And how often did the
10:05:41 10 newspapers' trucks come to the dump?

10:05:46 11 A. Well, I think I said it was -- it
10:05:49 12 was maybe a couple times a week.

10:05:51 13 Q. Okay. How you doing so far?

10:05:54 14 A. Okay.

10:05:55 15 Q. Do you need a break?

10:05:56 16 A. No, I'm fine.

10:05:57 17 Q. Okay. Are you familiar with a
10:06:10 18 company called DAP, D-A-P?

10:06:12 19 A. Yeah, they made tubes of
10:06:19 20 different -- various things. Mostly caulking,
10:06:22 21 that I remember.

10:06:23 22 Q. And did DAP --

10:06:25 23 MR. COUGHLIN: Objection. Move to
10:06:26 24 strike as nonresponsive. That's Bill Coughlin for
10:06:26 25 DAP.

15:40:51 1 today, and these are copies of the dump
15:40:51 2 tickets?

15:40:55 3 A. Correct.

15:40:56 4 Q. And do you have a specific
15:40:57 5 recollection of seeing a dump ticket with the
15:41:01 6 Dayton Daily News written on it?

15:41:03 7 A. I don't remember at this time.

15:41:06 8 Q. Okay. What about a dump ticket
15:41:07 9 with the Journal Herald written on it?

15:41:09 10 A. Not at this time.

15:41:10 11 Q. What would have been written on a
15:41:12 12 dump ticket for that customer?

15:41:12 13 MR. ROMINE: Objection.
15:41:12 14 Hypothetical.

15:41:12 15 THE WITNESS: I don't know at this
15:41:12 16 time.

15:41:26 17 BY MS. RHINEHART:

15:41:26 18 Q. I believe yesterday you testified
15:41:29 19 that under certain circumstances when Kenny was
15:41:31 20 unavailable, you would have written out the
15:41:34 21 dump tickets, is that correct?

15:41:34 22 A. Correct, um-hum.

15:41:35 23 Q. When the Dayton Daily News or
15:41:37 24 Journal Herald came to deliver something to the
15:41:40 25 dump, if you were there to take that ticket or

15:41:43 1 write that ticket out, what would you have
15:41:45 2 written on the ticket to denote that that was
15:41:48 3 the Dayton Daily News or the Journal Herald?

15:41:49 4 A. Because it would -- personally I
15:41:54 5 don't remember making a ticket out for either
15:41:58 6 entity of both the papers, so I just remember,
15:42:07 7 I think, trucks, I think. White panel trucks,
15:42:10 8 I think, is what.

15:42:14 9 Q. So you have no specific
15:42:15 10 recollection of writing out a dump ticket for
15:42:18 11 either the Dayton Daily News or Journal Herald,
15:42:20 12 is that correct?

15:42:20 13 A. No.

15:42:20 14 Q. Okay. And then let me -- I just
15:42:24 15 want to make sure I understand your testimony
15:42:26 16 from yesterday as to the waste that the Dayton
15:42:29 17 Daily News and Journal Herald would have
15:42:30 18 brought to the dump.

15:42:32 19 It consisted of old newspapers,
15:42:33 20 wood pallets and steel tubes that the
15:42:36 21 newspapers would have been in, is that correct?

15:42:39 22 A. No, they were like newspaper --
15:42:45 23 where you put the newspaper in, you put money
15:42:48 24 in to get the newspaper, they're like a metal
15:42:51 25 stand.

15:42:51 1 Q. Okay. Would they have been empty
15:42:53 2 when they came to the dump?

15:42:54 3 A. Yes.

15:42:55 4 Q. Okay. So aside from the old
15:42:57 5 newspapers, wood pallets and the steel tubes,
15:43:01 6 as you referred to them, there was no other
15:43:03 7 waste that the Dayton Daily News or Journal
15:43:06 8 Herald dumped at the site, correct?

15:43:07 9 A. Correct.

15:43:07 10 Q. Where would the steel tubes have
15:43:14 11 been dumped at the site?

15:43:16 12 MR. ROMINE: Objection. He didn't
15:43:17 13 say tubes, he said boxes.

15:43:19 14 THE WITNESS: It wasn't the tube.
15:43:20 15 Are you referring to the --

15:43:20 16 BY MS. RHINEHART:

15:43:23 17 Q. The steel boxes?

15:43:23 18 A. The steel boxes.

15:43:25 19 Q. Sorry if I misinterpreted that.

15:43:26 20 A. That's okay.

15:43:27 21 Q. So you were referring to steel
15:43:28 22 boxes then that the papers were in?

15:43:28 23 A. Right. Yes.

15:43:30 24 Q. Where would those -- the empty
15:43:32 25 steel boxes, would that have been dumped at the

15:43:32 1 site?

15:43:33 2 A. It would depend whether they'd
15:43:35 3 have a concrete slab they sat on or if they
15:43:37 4 just came without the slab.

15:43:39 5 Q. Okay. And if they came with the
15:43:42 6 slab, where would they have been dumped?

15:43:44 7 A. Down on -- on -- in the pit.

15:43:47 8 Q. Okay. And what about without?

15:43:49 9 A. It would go to the metal pile
15:43:52 10 where we kept steel for recycling.

15:43:56 11 Q. And would you have been able to
15:43:58 12 reuse that metal?

15:43:59 13 A. Yes.

15:43:59 14 Q. Okay. And do you have a specific
15:44:01 15 recollection of reusing the metal that would
15:44:05 16 have been disposed of from the newspapers?

15:44:07 17 A. I don't understand being more
15:44:15 18 specific. They were sent to salvage yard, so
15:44:19 19 we didn't use some of the material off of them,
15:44:23 20 but they were salvaged.

15:44:24 21 Q. I understand. Okay. Thank you.
15:44:27 22 And where would the paper products -- the
15:44:29 23 new -- old newspapers, shredded papers, where
15:44:31 24 would that have been dumped at the site?

15:44:36 25 A. Through different years until

15:44:41 1 Larry Brandon purchased those trash trucks,
15:44:46 2 they were buried, and then the others were --
15:44:52 3 when Larry Brandon started the recycling of
15:44:54 4 newspapers, they'd go to his Dayton Fiber, they
15:44:59 5 were recycled.

15:45:00 6 Q. And what about the wood pallets,
15:45:02 7 would those have been burned in the
15:45:04 8 incinerator?

15:45:04 9 A. Correct.

15:45:05 10 Q. Now, you had just mentioned Larry
15:45:09 11 Brandon, and I believe yesterday you stated
15:45:10 12 that he started in the late '60s Dayton Fiber,
15:45:15 13 is that correct?

15:45:16 14 A. No, I think he started either
15:45:19 15 from -- if I'm not mistaken, the latter part of
15:45:25 16 the '60s and '70s.

15:45:26 17 Q. Okay. And once --

15:45:27 18 A. About -- I think it was '70 -- I
15:45:33 19 don't remember.

15:45:33 20 Q. Okay. Once Larry Brandon started
15:45:37 21 Dayton Fiber and the paper products would be
15:45:41 22 disposed of at Dayton Fiber, did the newspapers
15:45:42 23 continue to dump any waste at the South Dayton
15:45:46 24 Dump?

15:45:46 25 A. Could you rephrase that again,

15:45:47 1 please?

15:45:48 2 Q. Sure. Once Larry Brandon started
15:45:50 3 the Dayton Fiber business and the newspapers
15:45:53 4 would take their paper waste over to Mr.
15:45:57 5 Brandon's facility to be used for insulation --
15:45:58 6 is that correct?

15:45:58 7 A. Correct.

15:45:58 8 Q. Okay. Once that started taking
15:46:00 9 place, did the newspapers still continue to
15:46:03 10 dump waste at the site, at your South Dayton
15:46:12 11 Dump?

15:46:12 12 A. Yes.

15:46:13 13 Q. Okay. And for how long after
15:46:15 14 would they have continued to dump waste?

15:46:18 15 A. I'm not sure, because I think it
15:46:25 16 had ceased at one time, but I don't remember
15:46:27 17 what year, so I just would assume maybe Larry
15:46:31 18 got a contract with them and they were taken
15:46:35 19 directly over to Dayton Fiber. I'm not sure.

15:46:37 20 Q. So at one point, you do have a
15:46:39 21 specific recollection that the newspapers
15:46:39 22 stopped disposing waste altogether at the South
15:46:43 23 Dayton Dump?

15:46:43 24 A. Yes.

15:46:43 25 Q. And would that have been in the

15:46:45 1 early '70s?

15:46:45 2 A. Yes.

15:46:45 3 Q. Okay. So before 1975?

15:46:48 4 A. Oh, yeah.

15:46:48 5 Q. Okay. Would it have been before

15:46:51 6 1970?

15:46:52 7 A. Possible.

15:46:53 8 Q. So maybe sometime between 1970,

15:46:56 9 1971?

15:46:58 10 A. Well, like I said, the -- the

15:47:01 11 latter part of '60s. What I'm saying, '68,

15:47:05 12 maybe '69, '70, '71, '72, somewhere in that

15:47:07 13 area.

15:47:07 14 Q. Okay. So at least not beyond

15:47:09 15 1972 -- let me rephrase that. As of 1972, at

15:47:15 16 the latest, the newspaper was no longer dumping

15:47:18 17 any waste at the South Dayton Dump, correct?

15:47:21 18 A. Correct.

15:47:21 19 Q. How did the Dayton Daily News

15:47:31 20 and Journal Herald transport its waste to the

15:47:34 21 dump?

15:47:36 22 A. I think it came in white like

15:47:41 23 moving -- moving trucks. They were off the

15:47:43 24 ground maybe three feet and had a rollup back

15:47:49 25 door.

15:47:54 1 Q. Anything else you recall about
15:47:56 2 them?

15:47:57 3 A. I think they said -- I'm not sure
15:48:05 4 about the lettering, but there was lettering on
15:48:07 5 the door.

15:48:07 6 Q. Any pictures?

15:48:07 7 A. Whether it was Journal Herald,
15:48:11 8 Dayton Daily News, I'm not sure, but it
15:48:15 9 definitely indicated, and I -- as to their
15:48:16 10 frequency, I would know that was from Dayton --
15:48:20 11 or from Dayton Daily News place.

15:48:23 12 Q. Now, putting aside what you saw at
15:48:26 13 the dump, just being from the Dayton area,
15:48:29 14 would you see Dayton Dailey News, Journal
15:48:32 15 Herald trucks around the Dayton area?

15:48:35 16 A. Only when I delivered papers that
15:48:38 17 they would come to a woman's garage where we'd
15:48:41 18 get them and deliver them. That was the only
15:48:44 19 time.

15:48:44 20 Q. Okay. You delivered Dayton Daily
15:48:46 21 newspapers?

15:48:46 22 A. And Journal Herald, yes.

15:48:47 23 Q. And approximately when was this?

15:48:50 24 A. Right around, I think, '62, '63
15:49:05 25 maybe.

15:49:05 1 Q. And for how long did you deliver
15:49:07 2 newspapers for the Dayton Daily News and
15:49:09 3 Journal Herald?

15:49:16 4 A. I think it was mostly in the
15:49:17 5 wintertime when I needed some extra cash, but I
15:49:22 6 didn't do it in the spring or summer because
15:49:25 7 I'd be out at the dump.

15:49:26 8 Q. For how many years, how many
15:49:26 9 winters?

15:49:30 10 A. About -- about two years.

15:49:30 11 Q. Okay. And the trucks that would
15:49:31 12 deliver the newspapers to you for you to then
15:49:34 13 go and deliver to the customers, were those the
15:49:35 14 same trucks that you recall seeing come to the
15:49:37 15 dump to deliver waste?

15:49:39 16 A. Yes.

15:49:39 17 Q. When the trucks -- going back to
15:49:44 18 the trucks that came to the dump, did you see
15:49:48 19 inside those trucks?

15:49:52 20 A. I've seen inside their trucks, but
15:49:54 21 I don't remember looking at them at the
15:49:59 22 landfill.

15:49:59 23 Q. Okay. So you have no specific
15:50:01 24 recollection of looking inside a Dayton Dailey
15:50:03 25 News or Journal Herald truck when it was

15:50:05 1 delivering waste to the site, correct?

15:50:06 2 A. Correct. Correct.

15:50:07 3 Q. Did you ever talk to one of the
15:50:09 4 drivers of the Dayton Daily News or Journal
15:50:12 5 Herald trucks --

15:50:12 6 A. No.

15:50:13 7 Q. -- when they came to the site?

15:50:15 8 A. No.

15:50:15 9 Q. Did you ever help unload a Dayton
15:50:23 10 Daily News or Journal Herald truck when it came
15:50:25 11 to the site to deliver waste?

15:50:32 12 A. No.

15:50:32 13 MS. RHINEHART: Thank you for your
15:50:33 14 time. I have nothing further.

15:50:35 15 THE WITNESS: You're welcome.

15:50:35 16 CROSS-EXAMINATION

15:50:51 17 BY MR. RUDLOFF:

15:50:51 18 Q. Sir, are you doing okay?

15:50:53 19 A. Yes.

15:50:53 20 Q. I'm Drew Rudloff. I represent the
15:51:05 21 Dayton Board of Education. I might refer to
15:51:07 22 the board or to the district during the course
15:51:09 23 of the deposition. I'll try to stick with one
15:51:11 24 or the other, but if I slip into one or the
15:51:14 25 other, I'm -- I'm mentioning and referring to

15:51:16 1 the same organization and entity, okay?

15:51:18 2 A. Yes.

15:51:18 3 Q. Okay. You indicated that you're
15:51:19 4 doing okay. You're still able to understand my
15:51:24 5 questions and provide testimony here today?

15:51:25 6 A. Yes, I am.

15:51:26 7 Q. Okay. Throughout the course of
15:51:32 8 the questioning, both in 2012 during your
15:51:34 9 deposition then, yesterday and today, you've
15:51:37 10 understood that you're under oath, correct?

15:51:39 11 A. I what?

15:51:39 12 Q. That you're under oath.

15:51:40 13 A. Yes, um-hum.

15:51:43 14 Q. Okay. And that oath is just as
15:51:44 15 binding as if you're testifying before a judge
15:51:46 16 and jury, correct?

15:51:47 17 A. Correct.

15:51:47 18 Q. Okay. Can you provide me with
15:51:48 19 your current mailing address?

15:51:51 20 A. Probably 7561 Walmac right now.

15:51:57 21 Q. Okay. And, I apologize, remind
15:51:59 22 again what address that is?

15:52:01 23 A. Donna Moeller's.

15:52:02 24 Q. Okay. Understood. If that
15:52:08 25 address -- if that mailing address changes at

15:52:11 1 any point in the future, can you let me know
15:52:13 2 that? I can provide you with my contact
15:52:16 3 information, okay?

15:52:17 4 A. Sure.

15:52:17 5 Q. Okay. You've never attended
15:52:20 6 school at any school in the Dayton Public
15:52:24 7 School System, correct?

15:52:27 8 A. I did.

15:52:28 9 Q. Okay. And where did you -- where
15:52:28 10 did you attend?

15:52:31 11 A. Dayton night school, I think 1970.

15:52:38 12 Q. Okay. Did any member of your
15:52:45 13 family attend school in the Dayton Public
15:52:47 14 School System?

15:52:47 15 A. My father and my mother.

15:52:47 16 Q. Okay.

15:52:50 17 A. And then my brother.

15:52:51 18 Q. Okay. Which brother?

15:52:52 19 A. John.

15:52:54 20 Q. All of them graduate from the
15:52:56 21 Dayton Public School System?

15:52:59 22 A. I think just John.

15:53:03 23 Q. Okay. I -- you had indicated
15:53:05 24 yesterday and today that there were some ill
15:53:08 25 feelings towards the University of Dayton.

15:53:09 1 No ill feelings in any regard with
15:53:12 2 respect to the Dayton Public School System,
15:53:14 3 correct?

15:53:14 4 A. No.

15:53:15 5 Q. Okay. Yesterday you had indicated
15:53:19 6 the Dayton Public Schools had delivered --
15:53:22 7 excuse me -- strike that.

15:53:24 8 You had indicated that Dayton
15:53:26 9 Public Schools had certain materials
15:53:27 10 transported to the site, correct?

15:53:29 11 A. Correct.

15:53:30 12 Q. Okay. And that included
15:53:33 13 furniture, which I believe there were some
15:53:35 14 doors that you described yesterday?

15:53:37 15 A. Yes.

15:53:38 16 Q. You had also indicated in your
15:53:41 17 2012 deposition wooden cabinets as well as
15:53:43 18 desks, correct?

15:53:45 19 A. Correct.

15:53:45 20 Q. Okay. Any other materials that
15:53:48 21 you would lump in that furniture category that
15:53:51 22 you believe Dayton Public Schools transported
15:53:53 23 to the site?

15:53:54 24 A. No.

15:53:54 25 Q. You had also talked about books,

15:53:56 1 wood pallets, wood benches and paper debris.

15:54:02 2 Aside from those things, are there any other
15:54:04 3 materials that you claim Dayton Public Schools
15:54:06 4 had transported to the site at any time?

15:54:08 5 A. No.

15:54:09 6 Q. Okay. With respect to the paper
15:54:11 7 debris, can you tell me just briefly what you
15:54:14 8 meant by that?

15:54:17 9 A. Like before I mentioned it was
15:54:19 10 trash you'd get out of a office or, you know, a
15:54:23 11 bathroom. It was in a few bags.

15:54:26 12 Q. Okay. Can you describe for me in
15:54:30 13 any greater detail what you meant by paper
15:54:32 14 debris when you said that yesterday?

15:54:34 15 A. Toilet paper, you know, the end of
15:54:38 16 a toilet -- the cardboard part of a toilet
15:54:40 17 paper --

15:54:41 18 Q. The interior roll?

15:54:43 19 A. Lots of brown hand towel things
15:54:49 20 that you -- that's all I can remember at this
15:55:00 21 moment.

15:55:00 22 Q. And so you've told me the sum
15:55:01 23 total of all the materials that you believe
15:55:05 24 Dayton Public Schools transported to the site,
15:55:06 25 correct?

15:55:06 1 A. Correct.

15:55:06 2 Q. Okay. Is there any way that you
15:55:09 3 can quantify how -- how many of each of those
15:55:16 4 things were transported to the site?

15:55:18 5 A. No.

15:55:18 6 Q. Okay. Am I understanding based on
15:55:25 7 your testimony yesterday, that you can't tell
15:55:27 8 me how those materials were transported to the
15:55:31 9 site, correct?

15:55:31 10 A. Correct.

15:55:32 11 Q. What's the basis for your belief
15:55:39 12 that those materials are attributable to Dayton
15:55:39 13 Public Schools?

15:55:47 14 A. Well, like I stated yesterday,
15:55:51 15 like the school desks that we had taken home,
15:55:58 16 my cousins and myself, would have Dayton School
15:56:03 17 Board or something on a label on one of the
15:56:07 18 legs or on the wooden desk itself.

15:56:10 19 Q. Okay. How many desks were taken
15:56:14 20 home?

15:56:14 21 A. Maybe half a dozen, dozen.

15:56:20 22 Q. You sound unsure about that.

15:56:24 23 A. Yes.

15:56:24 24 Q. Okay. You're unsure as to how
15:56:26 25 many desks were taken from the property,

15:56:28 1 correct?

15:56:28 2 A. Am I unsure?

15:56:31 3 Q. Yes.

15:56:31 4 A. Yes.

15:56:32 5 Q. Okay. Were any of the other
15:56:35 6 materials that you -- that you've listed for me
15:56:39 7 that we spoke about a moment ago taken from the
15:56:42 8 site?

15:56:55 9 A. No.

15:56:58 10 Q. Okay. Did any of the other
15:57:00 11 materials that we've talked about bear a
15:57:03 12 similar stamp to what you just described or
15:57:07 13 have any other indication whatsoever that they
15:57:09 14 were from Dayton Public Schools?

15:57:10 15 A. I think inside some of the books
15:57:16 16 might have had a stamp in ink with some dates
15:57:19 17 on it.

15:57:20 18 Q. They may have had a stamp or they
15:57:26 19 had a stamp? It seemed like you were, again,
15:57:28 20 unsure about that.

15:57:30 21 A. I'm pretty sure, so, yes. I'm
15:57:34 22 thinking. Yes would be my comment. Sorry guys
15:57:37 23 down there.

15:57:37 24 Q. Okay. And again, you can't
15:57:39 25 quantify the number of books for me that were

15:57:41 1 on site?

15:57:41 2 A. No.

15:57:41 3 Q. Okay. Any of the other materials
15:57:53 4 that you've listed for me that bore a similar
15:57:55 5 stamp or had any other indication whatsoever
15:57:58 6 that those materials were attributable to
15:58:01 7 Dayton Public Schools?

15:58:02 8 A. No.

15:58:02 9 Q. You had also indicated that no
15:58:09 10 other school district had contributed to waste
15:58:12 11 at the site. What's the basis for that
15:58:16 12 statement?

15:58:19 13 A. Because I can't remember seeing
15:58:24 14 any type of label, stamp or anything that would
15:58:27 15 indicate otherwise.

15:58:29 16 Q. Okay. But it's possible that
15:58:30 17 other districts could have contributed, you
15:58:33 18 just can't remember?

15:58:34 19 A. Yes.

15:58:35 20 Q. Did you ever see any receipts,
15:58:50 21 documents, anything at all, other than what we
15:58:55 22 already discussed -- well, strike that. I'm
15:58:55 23 sorry.

15:58:59 24 Have you ever seen any receipts or
15:59:02 25 other documents indicating whatsoever -- in any

1 STATE OF OHIO)

2 COUNTY OF MONTGOMERY) SS: CERTIFICATE

3 I, Barbara A. Nikolai, a Notary
4 Public within and for the State of Ohio, duly
5 commissioned and qualified,

6 DO HEREBY CERTIFY that the
7 above-named EDWARD GRILLOT, was by me first duly
8 sworn to testify the truth, the whole truth and
9 nothing but the truth.

10 Said testimony was reduced to
11 writing by me stenographically in the presence
12 of the witness and thereafter reduced to
13 typewriting.

14 I FURTHER CERTIFY that I am not a
15 relative or Attorney of either party, in any
16 manner interested in the event of this action,
17 nor am I, or the court reporting firm with which
18 I am affiliated, under a contract as defined in
19 Civil Rule 28(D).

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1 IN WITNESS WHEREOF, I have hereunto set
2 my hand and seal of office at Dayton, Ohio, on
3 this 30th day of December, 2013.



Barbara A. Nikolai

BARBARA A. NIKOLAI
NOTARY PUBLIC, STATE OF OHIO
My commission expires 12-13-2018

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF OHIO
3 WESTERN DIVISION

4 * * *

5 HOBART CORPORATION, et al.,

6 Plaintiffs,

7 vs.

CASE NO. 3:13-cv-00115-WHR

8 THE DAYTON POWER AND

9 LIGHT COMPANY, et al.,

10 Defendants.

11 * * *

12 Deposition of DAVID A. GRILLOT, Witness
13 herein, called by the Plaintiffs for direct
14 examination pursuant to the Rules of Civil
15 Procedure, taken before me, Michelle A. Elam, a
16 Notary Public in and for the State of Ohio, at the
17 offices of Sebaly, Shillito + Dyer, 1900 Kettering
18 Tower, 40 North Main Street, Dayton, Ohio, on
19 Wednesday, the 28th day of May, 2014, at 1:06 p.m.

20 * * *

16:55:06 1 A. No.

16:55:11 2 Q. Do you know whether any members of
16:55:12 3 your family have -- had been involved in
16:55:18 4 lawsuits over the South Dayton Dump?

16:55:18 5 A. No.

16:55:23 6 Q. You don't know if they have?

16:55:25 7 A. Not that I've heard.

16:55:27 8 Q. Have any members of the Grillot
16:55:30 9 family been sued over the South Dayton Dump?

16:55:34 10 A. Not that I know of.

16:55:50 11 MS. KNOWLTON: Thank you. I have no
16:55:51 12 further questions.

16:55:51 13 CROSS-EXAMINATION

16:57:22 14 BY MS. RHINEHART:

16:57:22 15 Q. Mr. Grillot -- everybody okay on
16:57:29 16 the phone?

16:57:29 17 (Thereupon, an off-the-record
16:57:29 18 discussion was had.)

16:57:40 19 Q. Mr. Grillot, my name is Erin
16:57:41 20 Rinehart. I represent Cox Media Group Ohio.

16:57:44 21 Any reason that you're unable to give
16:57:46 22 truthful and accurate testimony?

16:57:47 23 A. No.

16:57:48 24 Q. You're still doing okay?

16:57:50 25 A. Yeah.

16:57:50 1 Q. When you met Bill Walsh the
16:57:53 2 last -- you said it was two times that you had
16:57:55 3 met with Mr. Walsh; is that correct?

16:57:57 4 A. I believe so.

16:57:58 5 Q. Did you know Mr. Walsh personally?

16:57:58 6 A. No.

16:58:01 7 Q. That was the first time you had
16:58:02 8 ever met him?

16:58:03 9 A. Right.

16:58:03 10 Q. Did Mr. Walsh ever ask you about
16:58:06 11 Cox Media Group Ohio?

16:58:06 12 A. No.

16:58:09 13 Q. Did he ever ask you about the
16:58:10 14 Dayton Daily News?

16:58:10 15 A. No.

16:58:12 16 Q. Did he ever ask you about the
16:58:15 17 Journal Herald?

16:58:15 18 A. No.

16:58:15 19 Q. Are you familiar with what the
16:58:18 20 Journal Herald is -- or was?

16:58:18 21 A. Right.

16:58:19 22 Q. What was it?

16:58:20 23 A. Morning paper.

16:58:22 24 Q. Correct. And then you had
16:58:23 25 mentioned the Dayton Daily News earlier. And

16:58:27 1 that's the local newspaper in Dayton, correct?

16:58:29 2 A. Correct.

16:58:29 3 Q. And when you talked to Mr. Silver,
16:58:31 4 was it just the one time today? Larry.

16:58:35 5 A. Larry, yes.

16:58:36 6 Q. And did Larry ask you about the
16:58:39 7 Dayton Daily News?

16:58:40 8 A. I don't think so.

16:58:41 9 Q. What about the Journal Herald?

16:58:41 10 A. No.

16:58:44 11 Q. When you met with Mr. Walsh, did
16:58:45 12 he tell you that you had to meet with him?

16:58:49 13 A. No. He asked.

16:58:49 14 Q. And you met with him voluntarily?

16:58:51 15 A. Right.

16:58:52 16 Q. Why did you meet with him
16:58:53 17 voluntarily?

16:58:54 18 A. Because if somebody has a question
16:58:57 19 for me, I'll answer it. You know, the EPA, you
16:59:01 20 know, has talked to me two or three, four
16:59:04 21 times, five times through the years.

16:59:06 22 Q. Do you recall who from the EPA
16:59:09 23 that you've talked to?

16:59:10 24 A. Only thing is the lady's name was
16:59:12 25 Margaret. And I think she's retired or

16:59:15 1 something. I think that was about the first
16:59:17 2 one.

16:59:17 3 Q. When was the last time that you
16:59:19 4 talked to someone from the EPA?

16:59:21 5 A. I don't know. Three years ago,
16:59:23 6 four years ago, five years ago. It's been a
16:59:27 7 good while.

16:59:27 8 Q. So maybe 2008, 2009?

16:59:30 9 A. Maybe. I don't -- it's been --
16:59:34 10 you know --

16:59:35 11 Q. And prior to that, when did you
16:59:36 12 talk to the EPA? All in the same year? Was it
16:59:40 13 over the course of a period of years?

16:59:41 14 A. Through a period of years.

16:59:43 15 Q. And how long was that period?

16:59:44 16 A. I don't know. My father died in
16:59:48 17 '96. So I don't know. I don't know. I just
16:59:53 18 know they've been in contact with me.

16:59:54 19 Q. When the EPA first contacted you,
16:59:57 20 was it after your father had passed away?

17:00:00 21 A. Right.

17:00:00 22 Q. And when you talked to the EPA,
17:00:02 23 did anyone from the EPA ever ask you about the
17:00:05 24 Dayton Daily News or the Journal Herald?

17:00:08 25 A. No.

17:00:08 1 Q. Do you have any recollection of
17:00:11 2 the Dayton Daily News dumping waste at the
17:00:12 3 South Dayton Dump?

17:00:13 4 A. No.

17:00:14 5 Q. Do you have any recollection of
17:00:16 6 the Journal Herald dumping waste at the South
17:00:18 7 Dayton Dump?

17:00:18 8 A. No.

17:00:22 9 MS. RHINEHART: I have nothing
17:00:22 10 further. Thank you.

17:00:24 11 (Thereupon, an off-the-record
17:00:24 12 discussion was had.)

17:00:24 13 CROSS-EXAMINATION

17:00:24 14 BY MR. MUSTO:

17:01:08 15 Q. Mr. Grillot, my name is John
17:01:10 16 Musto. I represent the City of Dayton, Ohio.

17:01:12 17 I wanted to cut to the chase. Do you
17:01:14 18 have any knowledge of any waste that the City of
17:01:17 19 Dayton, Ohio, disposed of at the South Dayton
17:01:22 20 Dump?

17:01:22 21 A. No.

17:01:24 22 Q. You had mentioned earlier a
17:01:26 23 Doyle's salvage yard.

17:01:28 24 A. Right.

17:01:29 25 Q. Did you ever work for Doyle?

AFFIDAVIT OF JERRY BAKER

STATE OF OHIO)
COUNTY OF MONTGOMERY)

I, Jerry Baker, being duly cautioned and sworn upon oath state:

1. I am making this Affidavit based on my personal knowledge and I am competent to testify to the matters stated below.

2. I was hired by the Dayton Daily News ("DDN") on November 3, 1969 as a paper handler. After completing an apprenticeship, I was promoted to pressman, Foreman, and, later, to General Foreman. I retired from DDN on September 30, 2009.

3. In my position as General Foreman, I oversaw the paper handlers who supervised the delivery and use of paper in the newspaper production process. These responsibilities included paper that could not be used in production.

4. To the best of my recollection, from November 1969 through 1996, the DDN hired an independent company, Izzy's (later known as Capitol Waste), to haul its waste, including excess papers, cardboard and waste ink. Neither the DDN nor the Dayton Journal Herald ("DJH") disposed of its own waste.

5. During my tenure with the DDN and DJH, I never had personal contact with Izzy's or Capitol Waste, or any of its or their representatives. I observed Izzy's red pick-up truck come to the plant and remove the waste.

6. When Izzy's (and later Capitol Waste) picked up the waste, it used its trucks and personnel to pick up the waste and transport it to the waste site. I do not recall ever seeing the DDN and/or DJH trucks transport waste from the newspaper site to a waste disposal site. Such a practice would seem unlikely because those trucks were used to deliver daily newspapers to distribution centers, and those newspapers would get dirty if exposed to waste.

7. I do not know where Izzy's or Capitol Waste took the waste after its collection from the newspaper.

8. I have no recollection of the newspapers disposing waste, or arranging for the disposal of waste, at the South Dayton Dump and Landfill. I never heard anyone at the DDN or DJH ever mention that waste was going to the South Dayton Dump and Landfill.

Jerry Baker
Jerry Baker

Sworn to and subscribed in my presence by the said Jerry Baker, this 6th day of February, 2015.



ERIN STEFANEC
ATTORNEY AT LAW
NOTARY PUBLIC
STATE OF OHIO
My Comm. Has No
Expiration Date
Section 147.03 R. C.

Erin E. Rhinehart formerly Erin Stefanec
Erin E. Rhinehart, Esq. (Notary Public)

AFFIDAVIT OF CAROL SELF

STATE OF OHIO)
COUNTY OF MONTGOMERY)

I, Carol Self, being duly cautioned and sworn upon oath state:

1. I am making this Affidavit based on my personal knowledge and I am competent to testify to the matters stated below.

2. In 1974, I was hired by the Dayton Journal Herald ("DJH") in the editorial department. After several years in the editorial department, I transferred to the circulation department for the next twelve years. The circulation department was responsible for the delivery of newspapers to residential and commercial customers. In late 1987 or early 1988, I was promoted to purchasing director. In this job, I was responsible for purchasing services utilized by the DJH and the Dayton Daily News ("DDN"). I retired from the newspaper in 2006.

3. Based on my experience in circulation and purchasing and to the best of my recollection, the newspapers retained Capital Waste to collect and dispose of their waste paper from at least 1988 through 2006.

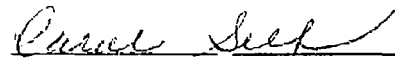
4. When Capital Waste came to pick up the waste paper, Capital Waste used its trucks and personnel to pick up the waste paper and transport it to the waste site. I do not recall ever seeing or hearing that the DDN and/or DJH trucks were used to transport waste paper from the newspaper site to the waste disposal site.

5. I have no knowledge of where Capital Waste may have disposed of the waste paper after its collection from the newspapers.

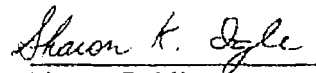
6. I have no recollection of the newspapers disposing waste, or arranging for the disposal of waste, at the South Dayton Dump and Landfill.

7. I have no recollection of anyone at the newspapers ever mentioning that waste was going to the South Dayton Dump and Landfill.

8. I have no personal knowledge of the South Dayton Dump and Landfill.


Carol Self

Sworn to and subscribed in my presence by the said Carol Self, this 10th day of March, 2015.


Notary Public

SHARON K. IGLU, Notary Public
In and for the State of Ohio
My Commission Expires Dec. 14, 2018

AFFIDAVIT OF GEORGE E. MORRIS JR.

STATE OF OHIO)
COUNTY OF MONTGOMERY)

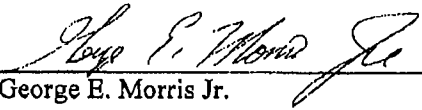
I, George Morris, being duly cautioned and sworn upon oath state:

1. I am making this Affidavit based on my personal knowledge and I am competent to testify to the matters stated below.
2. In 1969, I was hired by the Dayton Daily News ("DDN") as a production engineer. After several years, I was promoted to Director of Operations. I retired from my position as Director of Operations in 1992.
3. Prior to the mid-1970s, the DDN and/or the Dayton Journal Herald ("DJH") disposed of waste ink. "Waste ink" is ink contaminated with paper dust, which rendered the ink unusable. The waste ink was picked up by a third party waste collection company, pursuant to a contractual agreement with the DDN and/or the DJH that predated my start date with the newspaper. The waste collection company was located on or near Washington Street in Dayton, Ohio, and may have done business as either Capital Waste Materials Co. or A & B Iron & Metal Co., Inc.
4. In the mid-1970s, the DDN and DJH began using a filtration system so that the waste ink could be recycled and reused. In particular, the paper dust was filtered from the ink. Once this system was in place, there was less waste ink of which to dispose.

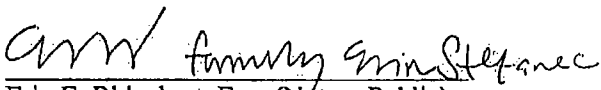
5. I have no recollection of any tubes containing waste ink or any other type of ink. The waste ink was disposed of in large metal drums, which were picked up by the third-party waste collection company.

6. The standard ink colors in the 1960s and 1970s were black, red, yellow and blue. The colored ink was packaged in buckets or barrels - not tubes. Once the waste ink was placed into the metal drums for disposal, any colored ink that may have been in the drums was overridden by the black ink in the drums. Therefore, the waste ink in the drums was black in color.

7. When the third party waste collection company came to pick up the waste ink, the company used its trucks to pick up the waste ink and transport it to the waste site. To the best of my knowledge, the DDN and/or DJH trucks did not transport waste ink from the newspaper site to the waste disposal site.


George E. Morris Jr.

Sworn to and subscribed in my presence by the said George Morris, this 20th day
of November, 2012.


Erin E. Rhinehart, Esq. (Notary Public)



663523.1

FARUKI IRELAND & COX P.L.L.

ATTORNEYS AT LAW

TRUSTED WISDOM. EXTRAORDINARY RESULTS.

Respond to Dayton Office

Robert P. Bartlett, Jr.
(937) 227-3707
rbartlett@ficlaw.com

September 26, 2012

VIA ELECTRONIC MAIL
AND REGULAR U.S. MAIL

Carol Ropski
U.S. Environmental Protection Agency
Superfund Division
Enforcement and Compliance Assurance Branch
Enforcement Services Section 1, SE-5J
77 West Jackson Boulevard
Chicago, IL 60604-3590

RE: South Dayton Dump and Landfill Site in Moraine, Ohio
Site Spill Identification Number: B52B
General Notice of Potential Liability

Dear Ms. Ropski:

This letter responds to the September 10, 2012 letter regarding the South Dayton Dump and Landfill Site in Moraine, Ohio ("Site"). I am writing on behalf of Cox Media Group Ohio ("Cox Media"). Cox Media has conducted a preliminary investigation into the EPA's allegations relating to the Site. Based on that investigation, Cox Media declines to agree to reimburse the EPA for costs incurred to date, and Cox Media does not agree to voluntarily perform or finance the response activities that the EPA has determined, or will determine, are required at the Site.

As requested on page 3 of the September 10 letter, the following is Cox Media's status report of its involvement in pending litigation relating to the Site. On June 29, 2012, in the case captioned Hobart Corporation, et al. v. Waste Management of Ohio, Inc., et al., Case No. 3:10-CV-00195, which has been pending in the Southern District of Ohio before Judge Walter H.

201 East Fifth Street
Suite 1420
Cincinnati, Ohio 45202
513-632-0300
Fax 513-632-0319



ficlaw.com

500 Courthouse Plaza, S.W.
10 North Ludlow Street
Dayton, Ohio 45402
937-227-3700
Fax 937-227-3717

CMGO 000004

FARUKI IRELAND & COX P.L.L.

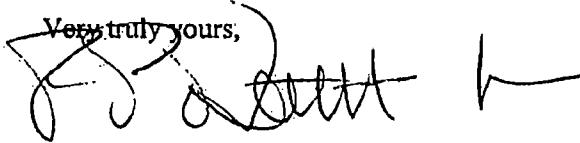
Carol Ropski
September 26, 2012
Page 2

Rice since May 24, 2010, Plaintiffs Hobart Corporation, NCR Corporation and Kelsey-Hayes Company filed a Motion for Leave to File Third Amended Complaint. See attached. The Third Amended Complaint includes additional named defendants, including Cox Media. As of the date of this letter, the Court has not ruled on Plaintiffs' Motion for Leave. Therefore, Cox Media is not a party to the lawsuit, and Cox Media has not participated in the lawsuit. Since Cox Media is not a party to the lawsuit, it declines to send a copy of this letter to any of the parties to the lawsuit, as requested by the EPA in its September 10 letter.

Finally, please direct all future communications regarding this matter to me,
Robert P. Bartlett, Jr., legal counsel for Cox Media:

Robert P. Bartlett, Jr., Esq.
Faruki Ireland & Cox P.L.L.
500 Courthouse Plaza, S.W.
10 North Ludlow Street
Dayton, Ohio 45402
(937) 227-3707

If I am unavailable, please contact Jeff Ireland at the same address. His direct number is (937) 227-3710. If you have any questions, please let me know.

Very truly yours,

Robert P. Bartlett, Jr.

RPB/slr
Enclosure

cc: D. Jeffrey Ireland, Esq.
Erin E. Rhinehart, Esq.

CMGO 000005

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

HOBART CORPORATION, <i>et al.</i> ,)	CASE NO. 3:10-CV-00195
)	
Plaintiffs,)	JUDGE WALTER HERBERT RICE
)	
vs.)	
)	
WASTE MANAGEMENT OF OHIO,)	
INC., <i>et al.</i> ,)	
)	
Defendants.)	

**PLAINTIFFS HOBART CORPORATION, NCR CORPORATION AND
KELSEY-HAYES COMPANY'S MOTION FOR LEAVE
TO FILE THIRD AMENDED COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 15(a), Hobart Corporation, Plaintiffs NCR Corporation and Kelsey-Hayes Company (collectively "Plaintiffs") hereby request leave to file their "Third Amended Complaint." Through this motion, Plaintiffs seek to amend their Second Amended Complaint (Doc. No. 69), which was filed on January 11, 2011, to: add additional newly-discovered defendants; add a theory of owner/operator liability against Defendant Dayton Power & Light Company; and add allegations that Defendant Waste Management of Ohio, Inc. is the successor to waste transporters not identified in the Second Amended Complaint. This motion is supported by the attached memorandum of law.

Dated: June 29, 2012

Respectfully submitted,

/s/ Michael A. Cyphert

Michael A. Cyphert, Esq. (0007086) – Trial Attorney

Leslie G. Wolfe, Esq. (0072838)

WALTER & HAVERFIELD LLP

The Tower at Erieview

1301 East Ninth Street, Suite 3500

Cleveland, Ohio 44114

Phone: (216) 781-1212

Email: mcyphert@walterhav.com

lwolfe@walterhav.com

Larry Silver, Esq., Pro Hac Vice

David E. Romine, Esq., Pro Hac Vice

Gregory A. Koory, Esq., Pro Hac Vice

LANGSAM, STEVENS, SILVER & HOLLAENDER LLP

1616 Walnut Street, Suite 1700

Philadelphia, Pennsylvania 19103

Phone: (215) 732-3255

Email: lsilver@lssh-law.com

dromine@lssh-law.com

gkoory@lssh-law.com

Attorneys for Plaintiffs

Rode, Sherri L.

From: Rode, Sherri L.
Sent: Wednesday, September 26, 2012 3:46 PM
To: 'ropski.carol@epa.gov'
Cc: Bartlett, Robert P.; Ireland, D. Jeffrey; Rhinehart, Erin E.
Subject: South Dayton Dump and Landfill (Site #B52B) [IWOV-DMS.FID84899]
Attachments: Ropski (EPA) letter.pdf

Please see the attached.

Sherri L. Rode, Assistant to Robert P. Bartlett, Jr. | Faruki Ireland & Cox P.L.L.
Email: srode@fclaw.com | **Tel:** 937.227.9864 | **Fax:** 937.227.3717
500 Courthouse Plaza, S.W. | Dayton, OH 45402
201 East Fifth St., Ste. 1420 | Cincinnati, OH 45202
Trusted Wisdom | Extraordinary Results | Web: www.fclaw.com

Bartlett, Robert P.

From: Carol Ropski [Ropski.Carol@epamail.epa.gov]
Sent: Wednesday, September 19, 2012 1:49 PM
To: Bartlett, Robert P.
Subject: Re: South Dayton Dump and Landfill Site in Moraine, Ohio. Identification Number B52B [IWOV-DMS.FID84899]
Attachments: South Dayton meeting agenda.docx

Dear Mr. Bartlett,

Attached is the agenda for today's meeting.

(See attached file: South Dayton meeting agenda.docx)

Carol Ropski
Enforcement Services Section 1
(312) 353-7647

"Bartlett, Robert P." ---09/17/2012 12:51:36 PM---Dear Ms. Ropski, This law firm represents Cox Media Group Ohio. We are in receipt of a letter from J

From: "Bartlett, Robert P." <RBartlett@fclaw.com>
To: Carol Ropski/R5/USEPA/US@EPA,
Date: 09/17/2012 12:51 PM
Subject: South Dayton Dump and Landfill Site in Moraine, Ohio. Identification Number B52B [IWOV-DMS.FID84899]

Dear Ms. Ropski,

This law firm represents Cox Media Group Ohio. We are in receipt of a letter from Jason El-Zein, Chief Emergency Response Branch 1, dated September 10, 2012. Please be advised that no representative of Cox Media Group Ohio will attend the September 19 meeting either in person or by phone.

Please provide me with copies of any and all documentation that indicate in any way that Cox Media Group Ohio allegedly disposed of hazardous waste at the landfill site.

Thank you.

Robert P. Bartlett, Esq. | Faruki Ireland & Cox P.L.L. | Email: rbartlett@fclaw.com
Tel: 937.227.3707 | Fax: 937.227.3717
500 Courthouse Plaza, S.W. | Dayton, OH 45402
201 East Fifth St., Ste. 1420 | Cincinnati, OH 45202
Trusted Wisdom | Extraordinary Results | Web: www.fclaw.com

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accepted by Faruki Ireland & Cox P.L.L. for any loss or damage arising in any way from its use.

South Dayton Dump & Landfill Removal Action Meeting
Wed. September 19, 2012

AGENDA

Introductions (Renninger)

Powerpoint (Renninger)

Site History
What is Vapor Intrusion (VI)
PRP VI Data
Request for Removal Assistance
What are Screening Levels
EPA 2012 VI Data
Removal Scope of Work

General Notice Letter dated Sept 10, 2012 (Nash)

Sept 19, 2012 meeting
Sept 28, 2012 deadline

Draft AOC Discussion (Nash/Ropski/Renninger)

Background
Threats
Scope of Work

Questions/Comments



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

SE-5J

SEP 10 2012

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

[FOR COX MEDIA GROUP OHIO, INC.]
THE PRENTICE-HALL CORPORATION
SYSTEM, INC.
50 WEST BROAD STREET SUITE 1800
COLUMBUS, OH 43215

Re: South Dayton Dump and Landfill Site in Moraine, Ohio
Site Spill Identification Number: B52B
General Notice of Potential Liability

Dear Sir or Madam:

The U.S. Environmental Protection Agency has documented the release or threat of release of hazardous substances, pollutants and contaminants into the environment from the above-referenced Site and is planning to spend public funds to control and investigate these releases. This action will be taken by EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (CERCLA), 42 U.S.C. §§ 9601-9675, unless EPA determines that such action will be done properly by a responsible party or parties. Responsible parties under CERCLA include the current and former owners and operators of the Site, and persons who generated the hazardous substances or were involved in the transport, treatment or disposal of the hazardous substances at the Site. Under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), where EPA uses public funds towards the cleanup of the hazardous substances, responsible parties are liable for all costs associated with the removal or remedial action and all other necessary costs incurred in cleaning up the Site, including investigation, planning and enforcement costs.

EPA is currently planning to conduct the following actions at the above-referenced Site:

1. Develop and implement a Site Health and Safety Plan.
2. Conduct subsurface gas sampling including Volatile Organic Compounds (VOCs) and methane, and conduct extent of contamination sampling utilizing groundwater, soil gas, sub-slab, and indoor air sampling techniques.
3. If the Ohio Department of Health (ODH) Sub-Slab Air Screening Level for a contaminant

of concern (TCE, PCE, methane, etc) is exceeded for an off-site residential or commercial structure, design and install a vapor abatement mitigation system in the structure(s) impacted by subsurface gas migration. The abatement system will include installation of a sub-slab depressurization system (SSDS) or crawl space depressurization system, sealing cracks in walls and floors of the basement, and sealing drains that could be a pathway. The vapor abatement mitigation system will be designed to control levels of methane and VOCs to below ODH sub-slab and indoor air screening levels.

4. If the ODH Sub-Slab Air Screening Level for a contaminant of concern (TCE, PCE, methane, etc) is exceeded for an on-site commercial structure, design and install a vapor abatement mitigation system in the structure(s) impacted by subsurface gas migration. The abatement system will include installation of a sub-slab depressurization system (SSDS), sealing cracks in walls and floors, and sealing drains that could be a pathway. The vapor abatement mitigation system will be designed to control levels of methane and VOCs to below ODH sub-slab and indoor air screening levels.
5. If levels of methane at the property boundary are greater than the lower explosive limit (5% methane), design and install a perimeter landfill gas extraction system designed to prevent landfill gas migration off-site. The perimeter landfill gas system will be designed to control levels of methane at the property boundary to less than the lower explosive limit (5% methane).
6. Develop and implement a performance sample plan to confirm that ODH screening levels are achieved for contaminants of concern following installation of on-site or off-site vapor abatement mitigation systems.
7. If necessary, develop and implement: (1) a perimeter landfill gas extraction system performance sample plan including the installation of perimeter subsurface probes to confirm that methane action levels are achieved and (2) a landfill gas extraction system effluent sample plan.

EPA has received information that your organization may have owned or operated the Site or generated or transported hazardous substances that were disposed of at the Site. By this letter, EPA notifies you of your potential liability with regard to this matter and encourages you, as a potentially responsible party, to agree to reimburse EPA for costs incurred to date and to voluntarily perform or finance the response activities that EPA has determined or will determine are required at the Site. EPA is willing to discuss with you the entry of an appropriate administrative consent order under which you would perform or finance response activities and reimburse EPA for its costs.

If a consent order cannot be promptly concluded, EPA may issue a unilateral order under Section 106 of CERCLA, requiring you to perform specified work. Under Sections 106 and 107 of CERCLA, you may be liable for reimbursement of EPA's costs, for statutory penalties and for

treble damages for noncompliance with such an order. If you are a qualified small business, enclosed is a *U.S. EPA Small Business Resources Information Sheet*, which may be helpful if you are subject to an EPA enforcement action.

Because of the conditions described above, EPA believes that response activities at the Site must be initiated as quickly as possible. Therefore, EPA does not intend to utilize the special notice procedures available under Section 122(e) of CERCLA.

As a potentially responsible party, you should notify EPA in writing by September 28, 2012 of your willingness to perform or finance the activities described above and to reimburse EPA for its costs. Your response should be sent to:

Carol Ropski
U.S. Environmental Protection Agency
Superfund Division
Enforcement and Compliance Assurance Branch
Enforcement Services Section 1, SE-5J
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

If EPA does not receive a timely response, EPA will assume that your organization does not wish to negotiate a resolution of its potential responsibility in connection with the Site and that your organization has declined any involvement in performing the response activities.

Your response should indicate the appropriate name, address and telephone number for further contact with you. If you are already involved in discussions with state or local authorities, engaged in a voluntary cleanup action or involved in a lawsuit regarding this Site, you should continue such activities as you see fit. This letter is not intended to advise you or direct you to restrict or discontinue any such activities already underway; however, you are advised to report the status of those discussions or actions in your response to this letter and to provide a copy of your response to any other parties involved in those discussions or actions.

In addition, EPA has scheduled a meeting at Region 5's Chicago office on Wednesday, September 19 at 1:30 p.m. CDT to discuss the removal action and an agreed consent order. The meeting will be held at 77 West Jackson Boulevard in the Lake Superior Room on the 12th floor. For those unable to attend in person, a call in number is available. That number is 866-299-3188, conference code 312-353-8730. Please confirm or decline your attendance and indicate if it will be by phone or in person to ropski.carol@epa.gov.

If you need further information regarding this letter, you may contact Thomas Nash of EPA Office of Regional Counsel at 312-886-0552.

Due to the nature of the problem at this facility and the attendant legal ramifications, EPA strongly encourages you to submit a written response within the time frame specified herein. We hope you will give this matter your immediate attention.

Sincerely,

A handwritten signature in dark ink, appearing to read 'J. El-Zein', with a horizontal line extending to the right.

Jason El-Zein, Chief
Emergency Response Branch 1

Enclosure

SOUTH DAYTON DUMP AND LANDFILL SITE

List of Potentially Responsible Parties Sent General Notice of Potential Liability

Michael P. Bachevich
2908 Springboro West
Dayton, OH 45439
[For A.E. Fickert, Inc.]

John H. Howland
200 Providence Street
P.O. Box 1007
West Warwick, RI 02893
[For Bradford Soap International, Inc.]

Bricker & Eckler, LLP
Attn: Martha Horvitz
100 South Third Street
Columbus, OH 43215-4291
[Dayton Power & Light Company]

CT Corporation System
1300 East Ninth Street
Cleveland, OH 44114
[For Flowserve Corporation]

NCR Corporation
Attn: Brian Heath
3097 Satellite Blvd, 2nd Floor
Duluth, GA 30096

Cargill, Inc.
Attn: Christopher Haack
15407 McGinty Road West, MS-24
Wayzata, MN 55391

KMK Service Corporation,
1 East Fourth Suite #1800
Cincinnati, OH 45202
[For Cintas Corporation]

Corporation Trust Center
1209 Orange Street Wilmington
New Castle, DE, 19801
[For Coca Cola Enterprise, Inc.]

Dinsmore & Shohl LLP
Attn: Timothy Hoffman
1100 Courthouse Plaza, S.W.
10 North Ludlow Street
Dayton, OH 45402
[For Kathryn Boesch]

Dinsmore & Shohl LLP
Attn: Timothy Hoffman
1100 Courthouse Plaza, S.W.
10 North Ludlow Street
Dayton, OH 45402
[For Margaret Grillot]

The Prentice Hall Corporation System, Inc.,
50 West Broad Street
Suite 1800
Columbus, OH 43215
[For Cox Media Group Ohio, Inc]

CSC- Lawyers Incorporating Service
50 West Broad Street
Suite 1800
Columbus, OH 43215
[DAP Products, Inc.]

CSC-Lawyers Incorporating Service
50 West Broad Street
Suite 1800
Columbus, OH 43215
[For Day International, Inc.]

David M. Hussong
1880 Radio Road
Dayton, OH 45431

Dayton Power & Light Company
Attn: Athan Vinolus
MacGregor Park
1065 Woodman Drive
Dayton, OH 45432

CT Corporation System,
111 Eighth Avenue
New York, New York, 10011
[For Flowserve Corporation]

Mark R. Chilson
9277 Centre Pointe Drive
Suite 100
West Chester, OH 45069
[For Franklin Iron & Metal Corp.]

The Prentice Hall Corporation System, Inc.,
50 West Broad Street
Suite 1800
Columbus, OH 43215
[For DAP Products Inc.]

CSC - Lawyers Incorporating Service
50 West Broad Street
Columbus, OH 43215
[For Harris Corporation]

Illinois Tool Works, Inc.
Attn: Ken Brown
3600 West Lake Avenue
Glenview, IL 60025-5811
[For Hobart Corporation]

John R. Jurgensen Company
Attn: Daniel Crago
1901 Dryden Road
Moraine, OH 45439

CT Corporation System
1300 East Ninth Street
Cleveland, OH 44114
[Kimberly-Clark Corporation]

CT Corporation System
1300 East Ninth Street
Cleveland, OH 44114
[For L.M. Berry]

CT Corporation System,
1300 East Ninth Street,
Cleveland, OH 44114-0000
[For Meredith Corporation]

CSC- Lawyers Incorporating Service
50 West Broad Street
Suite 1800
Columbus, OH 43215
[For The Sherwin-Williams Company]

CT Corporation System
1300 East Ninth Street
Cleveland, OH 44114
[For The Ohio Bell Telephone Company]

Carl M. Bridges
P.O. Box 1296
Dayton, OH 45401
[For The Peerless Transportation Company]

CT Corporation System
4400 Easton Commons Way
Suite 125
Columbus, OH 43219
[For The Reynolds and Reynolds Company]

The Corporation Trust Company Corporation Trust Center
1209 Orange Street
Wilmington, DE 19801
[For Pepsi-Cola General Bottlers of Ohio, Inc.]

CT Corporation System
1300 East Ninth Street
Cleveland, OH 44114
[For The Standard Register Company]

TRW
f/k/a Dayton-Walther, Kelsey Hayes
Attn: Scott Blackhurst
24175 Research Drive
Farmington Hills, MI 48335

Valley Asphalt Corporation
Attn: Dan Crago
11641 Mosteller Road
Cincinnati, OH 45241

Waste Management, Inc.
f/k/a Industrial Waste Disposal
Attn: Michelle Gale, Esq.
720 Butterfield Road
Lombard, IL 60148

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources, including workshops, training sessions, hotlines, websites and guides, to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

EPA's Small Business Websites

Small Business Environmental Homepage - www.smallbiz-enviroweb.org

Small Business Gateway - www.epa.gov/smallbusiness

EPA's Small Business Ombudsman - www.epa.gov/sbo or 1-800-368-5888

EPA's Compliance Assistance Homepage

[www.epa.gov/compliance/assistance/
business.html](http://www.epa.gov/compliance/assistance/business.html)

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

EPA's Compliance Assistance Centers www.assistancecenters.net

EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture
www.epa.gov/agriculture/

Automotive Recycling
www.ecarcenter.org

Automotive Service and Repair
www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing
www.chemalliance.org

Construction
www.cicacenter.org or 1-734-995-4911

Education
www.campuserc.org

Food Processing
www.fpeac.org

Healthcare
www.hercenter.org

Local Government
www.lgean.org

Metal Finishing
www.nmffc.org

Paints and Coatings
www.paintcenter.org

Printed Wiring Board Manufacturing
www.pwbrc.org

Printing
www.pneac.org

Ports
www.portcompliance.org

**U.S. Border Compliance and
Import/Export Issues**
www.bordercenter.org

**Hotlines, Helplines and
Clearinghouses**
www.epa.gov/epahome/hotline.htm

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

Antimicrobial Information Hotline
info-antimicrobial@epa.gov or
1-703-308-6411

**Clean Air Technology Center (CATC)
Info-line**
www.epa.gov/ttn/catc or 1-919-541-0800

**Emergency Planning and Community
Right-To-Know Act**
[www.epa.gov/superfund/resources/
infocenter/epcra.htm](http://www.epa.gov/superfund/resources/infocenter/epcra.htm) or 1-800-424-9346

**EPA Imported Vehicles and Engines
Public Helpline**
www.epa.gov/otaq/imports or
734-214-4100

National Pesticide Information Center
www.npic.orst.edu/ or 1-800-858-7378

**National Response Center Hotline -
to report oil and hazardous substance spills**
www.nrc.uscg.mil or 1-800-424-8802

**Pollution Prevention Information
Clearinghouse (PPIC)**
www.epa.gov/opptintr/ppic or
1-202-566-0799

Safe Drinking Water Hotline
[www.epa.gov/safewater/hotline/index.
html](http://www.epa.gov/safewater/hotline/index.html) or 1-800-426-4791

Stratospheric Ozone Protection Hotline
www.epa.gov/ozont or 1-800-296-1996

U.S. EPA Small Business Resources

Toxic Substances Control Act (TSCA) Hotline
tsca-hotline@epa.gov or 1-202-554-1404

Wetlands Information Helpline
www.epa.gov/owow/wetlands/wetline.html or 1-800-832-7828

State and Tribal Web-Based Resources

State Resource Locators
www.cnvcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)
www.smallbiz-enviroweb.org

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits. The website is a central point for sharing resources between EPA and states.

EPA's Tribal Compliance Assistance Center
www.epa.gov/tribalcompliance/index.html

The Center provides material to Tribes on environmental stewardship and regulations that might apply to tribal government operations.

EPA's Tribal Portal
www.epa.gov/tribalportal/

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy
www.epa.gov/compliance/incentives/smallbusiness/index.html

This Policy offers small businesses special incentives to come into compliance voluntarily.

EPA's Audit Policy
www.epa.gov/compliance/incentives/auditing/auditpolicy.html

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247), or go to their website at www.sba.gov/ombudsman.

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.



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Environmental Protection
Agency
Region 5
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Chicago, IL 60604

Ropski (6E-SJ)

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COLUMBUS, OH 43215



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Enforcement & Compliance (SE-5J)
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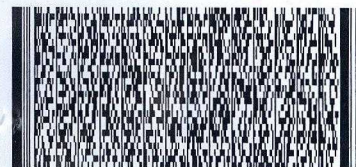
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